

## **CHAPTER I -- PRELIMINARY STATEMENT AND DEFINITION OF TERMS**

### Rule 1.1 PRELIMINARY STATEMENT

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## CHAPTER I

### PRELIMINARY STATEMENT AND DEFINITION OF TERMS

- Rule 1.1            PRELIMINARY STATEMENT
- 1.1.1           STATUTORY AUTHORITY FOR THESE RULES
- A.        The rules contained herein are established pursuant to the authority of the Personnel Commission under Education Code Sections 88080 and 88081, and other provisions governing the Merit System Act in the Education Code.
- 1.1.2           INTERPRETATION AND APPLICATION OF RULES
- A.        The Commission shall prescribe, amend, and
- B.        The Commission recognizes that no set of an contemplate all possible combinations of circumstances affecting particular cases. These rules are to be applied with consideration of their intent; however, specific, applicable provisions of the rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases. The Commission is open to responsible suggestions to amend rules with prospective application; however, no rule amendment or new rule shall be applied retroactively.
- C.        If the subject matter and procedure in a rule is within the scope or representation, as defined in Government Code Section 3543.2, a rule shall be applicable as follows:
1.        If a rule provides for a benefit, and a collective bargaining contract does not provide for that benefit, the benefit shall not be available to employees in the unit unless the benefit is required by law.
2.        If a rule prescribes a procedure and a contract does not, the rule shall apply to employees in the unit.

## Section 1.1.3

### 1.1.3 CONTENT OF RULES

- A. The rules shall provide for procedures to be followed by the Board of Trustees as they pertain to the classified service regarding applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, work hours and overtime compensation within classification, job analysis and job specifications, performance evaluations, public advertisement of examinations, rejections of unfit applicants without competition, and any other matters necessary to carry out the provisions and purposes of Article 3 of Chapter 4, Division 7, Title 3 of the Education Code (Merit System).

### 1.1.4 TERMINOLOGY (EDUCATION CODE SECTIONS 72, 74, 75)

- A. As used in these Rules, the present tense includes the past and future tenses, and the future tense includes the present. Singular terms shall be construed to include the plural and plural terms shall include the singular. Shall is to be construed as mandatory and may is permissive.

### 1.1.5 JUDICIAL REVIEW

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

1.1.6 AMENDMENT, DELETION, OR ADDITION OF RULES

- A. All proposals, from any source, to amend, delete, or add to these rules will be considered a "first reading" at the meeting in which they are first presented to the Commission.
- B. All Rule proposals shall be distributed to all departments where classified employees are assigned and notification of the proposals shall be made to the Administrators and the classified employees exclusive of bargaining representative(s) before final approval.
- C. A period of two weeks shall elapse between tentative approval of a new rule or tentative amendment of an existing rule, and its final adoption; provided, however, that in emergencies final action may be taken after the lapse of one week. A special bulletin to schools and offices shall precede any emergency action. This does not preclude acceptance by the Commission of amendments to the proposed rule at any time prior to final adoption.
- D. Rules of the Personnel Commission requiring the expenditure of funds by the Governing Board shall be submitted to the Board for concurrence.

1.1.7 ENFORCEMENT OF THE ACT AND RULES

- A. The Commission shall enforce the provisions of the Act and of these Rules and hold such hearings and conduct such investigations as may be necessary to this end.

Rule 1.2 DEFINITION OF TERMS

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

- ACT OR THE ACT:** The act refers to Title 3, Division 7, part 51, Chapter 4, article 3, sections 88060-88139 and applicable provisions of sections 88008-88037 of the Education Code of the State of California.
- ADMINISTRATIVE CLASS:** A class meeting the criteria outlined in Rule 12.3 for exemption from overtime.
- ALLOCATE OR ALLOCATION:** The official placing of a position in a given class assigned to a particular range on the salary schedule.
- ANNIVERSARY DATE:** The day on which an employee completes the prescribed amount of service in the District to qualify for longevity benefits such as longevity pay or additional vacation. Anniversary dates shall be on the first day of the month and breaks in service and unpaid absences of two months or more shall not be credited.
- APPEAL:** A protest by an employee regarding an administrative action which is detrimental to the employee.
- APPLICANT:** A person who has filed a standard application form for employment.
- APPOINTING AUTHORITY:** The governing board of the Santa Monica Community College District, the Personnel Commission, or their designee.
- APPOINTMENT:** The official act of the appointing authority in approving the employment of a person.
- BOARD:** The Santa Monica Community College District Board of Trustees.

Rule 1.2 (cont)

CANDIDATE:	A person who has successfully completed one or more portions of the examination.
CASUAL POSITION:	A temporary, part time, non-continuous position limited to 15 hours per week and 15 days per month.
CAUSE:	The grounds for a disciplinary action by the Board against an employee as stated in state law and the written rules of the Board and Personnel Commission.
CERTIFICATION:	The submission of names of eligibles from an appropriate list to an appointing authority by the Personnel Director.
CLASS:	A group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be used to designate each position assigned to the class, that substantially the same requirements of education, experience, knowledge and ability are demanded of incumbents, and substantially the same tests of fitness may be used in choosing qualified appointees. In addition, the same salary range may be applied with equity.
CLASS SPECIFICATION:	A written statement of the duties and responsibilities of the positions in the class illustrated by examples of typical tasks and of the qualification requirements of the positions in the class.
CLASS TITLE:	A definite descriptive title or name applied to a class and to all positions of the class (even though there be but one). The class title is to be as descriptive as possible of the duties assigned to the class.
CLASSIFY OR CLASSIFICATION:	The assignment of a position to a class, whether new or existing, because of the position's qualifications, duties and responsibilities.

Rule 1.2 (cont.)

COMMISSION:	The Personnel Commission of the Santa Monica Community College District.
DEMOTION:	The change of assignment of an employee from a position in one class to a position in another class with a lower maximum salary rate.
DESIRABLE QUALIFICATIONS:	The statement of the qualifications which are determined to be minimally required and additionally helpful for successful performance of the duties of the class. The statement may include education, experience, knowledge, skills, abilities, and personal and physical characteristics.
DISCHARGE OR DISMISSAL:	Involuntary separation from service for cause.
DISCIPLINARY ACTION:	An action by the Board to deprive a permanent employee of his/her position or salary entitlement without his/her consent. This includes suspension, demotion or salary reduction and dismissal.
DISTRICT:	The Santa Monica Community College District.
DUTY:	The work activity or functions assigned to an employee by his/her supervisor for which he/she is held accountable.
ELIGIBLE (Adjective):	Legally qualified to be appointed.
(Noun):	A person whose name appears on an eligibility list.
ELIGIBILITY LIST:	A list of the names of persons who have qualified in all parts of the examination.
EMERGENCY APPOINTMENT:	An appointment for a period not to exceed 15 working days to prevent the stoppage of public business. Emergency appointments need not be made from eligibility lists.

Rule 1.2 (cont.)

EMPLOYEE:	A person who is legally an incumbent of a position or who is on an authorized leave of absence.
EMPLOYEE ORGANIZATION:	An organization which represents all or part of the employees in their relations with the District.
EMPLOYMENT LIST:	A list of names from which certification may be made. It includes eligibility lists, reemployment lists and lists of persons who wish to transfer, be demoted, or in any manner be employed subject to the rules of the Commission.
ENTRY LEVEL CLASS:	A class for which open examinations are customarily held.
EXAMINATION:	The process of testing and evaluating the fitness qualifications of applicants.
EXCLUSIVE REPRESENTATIVE:	The employee organization recognized or certified by PERB, which exclusively represents an approved unit of employees.
EXECUTIVE CLASS:	A class meeting the criteria outlined in Rule 12.3 for exemption from overtime.
GOVERNING BOARD:	See "Board."
GRIEVANCES:	The procedure through which permanent classified employees may seek adjustment of complaints arising out of alleged violations of Board or Commission rules or policies or administrative procedures, working conditions or job relations, including a complaint of one employee against another.
GROUP:	A number of classes related in duties and responsibilities as set forth in the list of classes promulgated by the Commission.



Rule 1.2 (cont.)

HEARING:	The formal meeting of the Personnel Commission at which evidence is presented concerning an appeal from disciplinary action, an investigation by Personnel Commission staff, or grievance by an employee.
INCREMENT DATE:	The date on which an employee becomes eligible for merit salary advancement. The increment date shall be set as provided in Chapter XII of these Rules.
JOB ANALYSIS:	The technical process by which positions are studied to define what tasks are performed on the job or will be assigned to a new position and to determine the knowledge, skills, abilities, and behaviors which are required for successful performance on the job. It is used as a basis for classifying positions and developing selection plans.
JOB FAMILY:	The largest division of classes organized into smaller categories of classes called groups.
LATERAL TRANSFER:	The transfer of an employee to a position in a similar or related class with the same salary range.
LAYOFF:	Separation from a permanent position because of a lack of work, lack of funds or abolishment of position without fault on the part of the employee.
LIMITED-TERM POSITION:	A position established for a fixed period, which does not exceed six months.
MAY:	A verb indicating that an action is permissive.
MERIT SYSTEM:	The principle and procedure of (1) selection, retention promotion on the basis of merit and fitness through competitive processes, (2) like pay for like work within the classified service.

Rule 1.2 (cont.)

MULTIPLE ASSIGNMENT:	A part-time limited-term assignment and a part-time regular classified assignment or two regular part-time classified assignments performed by one incumbent.
OPEN EXAMINATION:	A competitive examination, which any qualified person may participate whether or not that person is currently an employee.
PART TIME:	The status given to an employee assigned to work less than 35 hours per week.
PERMANENT EMPLOYEE:	An employee who has completed a probationary period in the class to which he/she is assigned.
PERMANENT POSITION:	A position established for a continuing and indefinite or unlimited period of time, or for a fixed period in excess of six months.
PERSONNEL DIRECTOR:	The Personnel Director is employed by the Commission. He/she shall act as secretary of the Commission.
POSITION:	A combination of duties regularly assigned to be performed by one person.
PROBATIONARY PERIOD:	A trial period of six months or one year, as determined by the Personnel Commission, immediately following an original or promotional appointment to a permanent position from an eligibility list.
PROMOTION:	A change of assignment of an employee from a position in one class to a position in a class with a higher maximum salary rate.
PROMOTIONAL LIST:	An eligibility list resulting from a promotional examination limited to qualified permanent employees only.

Rule 1.2 (cont.)

PROVISIONAL ASSIGNMENT:	The appointment of a qualified person to fill a position for which no appropriate employment list exists pending an examination. Provisional appointments should be as short as possible normally not to exceed 90 working days, except as specified in Education Code Sections 88106 and 88108.
RANGE:	A series of consecutive salary steps that comprise the rate of pay for a class.
REALLOCATE OR REALLOCATION:	The reassignment of a class from one salary range to another without significant change in class title minimum qualifications, duties or responsibilities.
RECLASSIFY OR RECLASSIFICATION:	The reassignment of a position, whether filled or vacant from one class to another, whether new or existing, because of significant change in class title, minimum qualifications, duties or responsibilities. Reclassifications may occur only through a gradual accretion of growth of duties. Reclassification may or may not be accompanied by a change in salary range assignment.
REEMPLOYMENT:	Reappointment to duty within 39 months of an employee who has been laid off.
REEMPLOYMENT LIST:	A roster of names of persons who have been laid off from permanent positions by reason of lack of work, lack of funds or abolishment of position, medical disability or who are otherwise eligible for reemployment in their former classification without examination.
REGULAR EMPLOYEE:	An employee in the classified service who has probationary or permanent status.
REINSTATEMENT:	A reappointment after resignation, in regular or limited-term status, without examination, to a position in the employee's former class, or in a related lower class.

RESIGNATION:	Voluntary termination of employment by an employee.
RESTORATION:	The reassignment of an employee who has demoted to his/her former class or to a related class or a permanent status after reduction to limited-term status.
RESTRICTED EMPLOYEE:	An employee hired under a specially funded program as provided in Rule 3.1 which is limited to employment of persons from low-income groups or designated geographical areas. Such employees are part of the classified service but do not receive permanent status, seniority or promotional opportunities.
RETIREE:	A former permanent classified employee who has separated from active employment and is currently receiving a retirement allowance from the Public Employees Retirement System. Retirees may be reemployed for a maximum of 90 working days in a calendar year.
RULE OF THREE:	The procedure for certification to the appointing authority of the three highest available eligibles on an eligibility list when a vacancy is to be filled.
RULE OF THREE RANKS:	The procedure for ranking eligibles by rounding off final examination scores to the nearest whole percent. For classes designated as executive, administrative, professional and technical, certification from the eligibility list to fill a vacancy is made from the three highest ranks of available eligibles.
SALARY SCHEDULE:	The complete list of ranges, steps and rates established by the Commission for the classified service.
SALARY RANGE:	See "Range."

Rule 1.2 (cont.)

SALARY RATE:	A specific amount of money paid for a specific period of service; <u>i.e.</u> , dollars per hour or per month.
SEPARATION:	The termination of employment of an employee.
SERIES:	A number of classes closely related in occupational hierarchy and arranged on a list in order to indicate the occupational level in a group.
SHALL OR WILL:	These verbs indicate that the action is mandatory.
STATUS:	The condition of an employee's present appointment such as provisional, part-time, probationary, limited-term, permanent or regular.
SUBSTITUTE EMPLOYEE:	An employee occupying a permanent position during the absence of the incumbent.
SUSPENSION:	An involuntary absence with or without pay for disciplinary purposes or pending investigation or charges made against an employee.
TASK:	The smallest unit of work assigned to an employee. Tasks are grouped together to create a position.
TEMPORARY EMPLOYEE:	An employee hired on a basis other than permanent or probationary; i.e., in limited-term or provisional status.
TRANSFER-POSITION:	The reassignment of an employee from one position to another in the same class.
TRANSFER-LATERAL:	The reassignment of an employee from his/her regular class to another class on the same range of the salary schedule.

UNCLASSIFIED SERVICE:	All employees or positions not in the classified or, certificated service; i.e., these positions or employees exempted by law. See Rule 3.1, Section 2.
WAIVER:	The voluntary relinquishment by an individual of any right to consideration for appointment from an eligibility list.
WORKDAY:	That part of a 24-hour calendar day period during which an employee is assigned to work.
WORKING OUT OF CLASS:	Assignment of additional or new duties to an employee which are not a part of his/her regular position and which require the use of a higher skill. Working out of class assignments are compensated only when the assignment exceeds 5 out of 15 calendar days.
WORK WEEK:	Forty hours, usually served in five consecutive days within a seven-day cycle.
WORKING DAY:	A day on which classified employees are assigned to perform services.
Y-RATE:	A designation which is given to a salary step, range, and/or rate placement which remains above the approved maximum rate for the class when the salary schedule is realigned.

## **CHAPTER II – THE PERSONNEL COMMISSION**

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## CHAPTER II

### THE ORGANIZATION AND BYLAWS OF THE COMMISSION

Rule 2.1 PERSONNEL COMMISSION ORGANIZATION (Education Code Division 7, Part 51, Chapter 4, Article 3)

#### 2.1.1 MEMBERSHIP OF THE PERSONNEL COMMISSION

By law, beginning July 19, 2006 and henceforward, the Personnel Commission of the Santa Monica Community College District shall consist of five members (Ed Code 88067)

#### 2.1.2 APPOINTMENT OF MEMBERS OF THE PERSONNEL COMMISSION (Education Code 88065, 88066, 88068)

Appointments to the Personnel Commission shall be made in accordance with the Education Code by the governing board and classified employees, and in accordance with any subsequent legally binding agreements between the bodies as approved by the Chancellor's office. If the governing board and the classified employees of the district are unable to agree upon the manner in which Commissioners shall be appointed, the Chancellor of the California Community Colleges shall make the appointment within 30 days (Ed Code 88066 (b) (2)).

##### A. Initial Appointment

1. Personnel Commission members for the Personnel Commission shall be appointed as follows:
  - a. Two members appointed by the governing board of the district,
  - b. Two members appointed by the classified employees of the district,
  - c. Those four members shall, in turn, appoint the fifth member.

##### B. Subsequent Vacancies

1. Where a system is already in existence and a vacancy will exist on December 1, by not later than September 30 in a position nominated by either or both the governing board and/or the classified employees:
  - a. The Personnel Commission shall, as much as possible, notify the governing board and/or the classified employees of a vacancy at least 90-days prior to the vacancy occurring in order to allow



sufficient time for the body to nominate, vote, and appoint a member to the Commission.

- b. The governing board and classified employees shall follow the procedures outlined in the Education Code, the CSEA contract, and any subsequent legally binding agreements between the bodies as to the nomination, election, selection, and appointment of Commissioners.
- c. In all other situations where a vacancy shall occur, the Personnel Commission shall, as much as possible, notify and provide for sufficient notice of the vacancy to the governing board and classified employees.

### 2.1.3 QUALIFICATIONS FOR MEMBERSHIP (Education Code 88064)

Members of the Commission shall be registered voters, residents within the District, and shall be "known adherents of the principle of the merit system." For purposes of this Rule the following definitions shall apply:

- 1. "Known adherents to the principle of the merit system," with respect to a candidate for new appointment, shall mean a person who by 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.
- 2. With respect to a candidate for reappointment, "known adherent of the merit system" 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.
- 3. No member of the governing board of any school district or county board of education shall be eligible for appointment, reappointment, or continuance as a member of the Commission nor shall a Commissioner be an employee of the District during his or her terms of service.

2.1.4 TERMS OF OFFICE

By law, the term of each Commissioner is for three years. The five terms are staggered and one Commissioner's term expires each year at noon on December 1. The two appointees of each appointing body shall serve staggered three year terms.

On or about September 1 of each year, the Director of Classified Personnel shall notify the governing board and the classified employees of the name and address of the Commissioner(s) whose term(s) will expire and whether he or she, if offered, will accept reappointment. The notification shall also indicate that the governing board and classified employees shall follow the procedures as provided for in Education Code Section 88068 and as agreed upon in any subsequent agreements between the bodies.

2.1.5 ELECTION OF OFFICERS

At the first meeting following December 1 of each year, the Commission shall elect one of its members as Chair and another member as Vice Chair, to serve for a term of one year or until their successors are elected. The Chair shall be the presiding officer of all regular and special meetings. In the absence of the Chair, the Vice Chair shall preside.

2.1.6 CONDUCT OF BUSINESS

The Commission is committed to the deliberation of matters of business in an open and orderly manner. To this end, the Commission will be guided by the following code of conduct:

1. The Commission is made up of individuals with differing values and beliefs, debate is natural and expected; however, Commissioners will work with the Chair and fellow members in a spirit of respect, harmony and cooperation.
2. The Commission has authority to act only in official meetings; an individual Commissioner cannot bind the Commission outside such meetings.
3. The Commission encourages dialogue with the governing board, the District administration, and employee representatives; however, decisions should only be made after all facts have been presented and discussed. Statements or promises as to how a member will vote prior to a meeting are inappropriate.

4. Members of the Commission should recognize that deliberations held in closed session are confidential and discussion in public or release to parties outside the deliberations is unlawful unless previously authorized by a majority vote of the Commission.

2.1.7 CAUSES FOR REMOVAL OF A COMMISSIONER

Pursuant to Government Code 1770, a Commissioner's office becomes vacant, prior to the expiration of his/her term on the happening of any of the following events:

1. Death of a Commissioner.
2. A quo warranto adjudication declaring the Commissioner physically or mentally incapacitated.
3. Submission of the Commissioner's resignation to the Commission or the governing board.
4. Ceasing to discharge the duties of the office for a period of three consecutive months, except due to illness or excused absence.
5. Decision by a court of competent jurisdiction declaring the Commissioner's appointment to be illegal or removing the Commissioner from office.
6. Conviction of a felony crime or violation of the official duties of a Commissioner as required by law or these Rules.

2.1.8 QUORUM AND MAJORITY

Three (3) members shall constitute a quorum for any regular or special meeting of the Commission. The affirmative vote of three (3) members shall be necessary to any action.

Rule 2.2 MEETINGS

2.2.1 REGULAR MEETINGS

The Commission shall hold its regular meeting on the third Wednesday of each month. The Commission shall designate the time and place of the meetings on the Commission's official bulletin board. The Commission may meet at some other time or place, provided that at least 24 hours notice is given to Commissioners, employees, and administration representatives. Notice shall be posted on the Commission's official bulletin board and shall also be given to newspapers who have filed written request for such notice.

2.2.2 SPECIAL MEETINGS

- A. The Secretary or the Chair of the Commission may call a special meeting of the Commission whenever is necessary.
- B. The members of the Commission shall be notified of each special meeting by written notice delivered to them personally, or by mail, at least 24 hours in advance of the meeting. A copy of the written notice shall be posted on the Commission's official bulletin board which shall specify the time and place and the business to be transacted. Only those items of business listed in the notice will be considered at the meeting.
- C. Newspapers, radio stations, and other agencies specified in Government Code Section 54956 shall be notified 24 hours in advance of a special meeting if they have requested such notification prior to the meeting.

2.2.3 ADJOURNMENT

- A. The Commission may adjourn any regular meeting to a time and place specified in the order of adjournment. The adjourned meeting is for all purposes, a regular meeting.

2.2.4 PUBLIC MEETINGS

- A. All regular and special meetings of the Commission shall be open and public, and all persons shall be permitted to attend the Commission meetings, except as provided in Rule 2.2.5 below. This Rule shall not be construed as permitting employees to be absent from duty to attend Commission meetings without authorization.

- B. Individual employees, employee organizations, and other interested parties may submit their written comments on any matter before the Commission and will be granted a reasonable time to present their views at the appropriate time in the meeting.

#### 2.2.5 CLOSED SESSION

The Commission may hold a closed session for any of the following reasons:

1. To consider the appointment, employment, evaluation of performance, discipline, or dismissal of an employee.
2. To hear charges or complaints brought against a person or employee by another, unless such person or employee requests a public hearing.
3. To discuss legal matters that come within the attorney-client privilege.
4. For discussions with a state conciliator who has intervened as authorized by law.
5. To review and discuss its position and instruct its representatives on items within the scope of negotiations.

The vote or abstention of every member present on action taken in closed session shall be publicly reported.

#### 2.2.6 RULES OF ORDER

The Commission shall be governed by the rules of order approved by the Commission.

#### 2.2.7 ORDER OF BUSINESS AND AGENDA

- A. The order of business at each meeting of the Commission shall be established in the agenda for the meeting.
- B. The Personnel Director shall prepare an agenda for each regular and special meeting of the Commission. The agenda shall insofar as possible be delivered to each Commission member at least 48 hours prior to the meeting.
- C. The Personnel Director may submit addenda to the agenda in writing prior to a regular meeting. The Commission may act on the addenda.

2.2.8 BUSINESS FROM THE FLOOR

- A. The Commission will set aside a portion of each regular meeting for public comments. Any person requesting to speak to the Commission will be allowed a reasonable time, as determined by the Commission, to present their issue(s).

2.2.9 RECORDING OF MOTIONS

- A. Motions or resolutions shall be recorded as having carried or failed. Individual votes shall be recorded unless the action is unanimous.

2.2.10 MINUTES

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

2.2.11 PAYMENT FOR MEETING ATTENDANCE

- A. Each Commissioner shall receive the sum of \$50.00 for each meeting attended in any one month, including regular, adjourned or special meetings but not to exceed a total of \$250.00 per month. (Approved by Board of Trustees on 6/14/93).

Rule 2.3 COMMISSION EMPLOYEES

2.3.1 STATUS OF COMMISSION EMPLOYEES

- A. The Personnel Director and other persons required to carry out the responsibilities of the Commission shall be appointed by and be responsible to the Personnel Commission. However, they shall be considered part of the classified service, and the rules, procedures, benefits, and burdens pertinent to the classified service of the Santa Monica Community College District shall apply to Commission employees.

2.3.2 GENERAL DUTIES OF THE PERSONNEL DIRECTOR

- A. The Personnel Director shall perform all of the duties and carry out all of the functions imposed by law and these rules and shall be free of prejudgement or bias in order to ensure the impartiality of the Commission. The Director shall act as secretary to the Commission and shall issue and receive all notifications on its behalf. The Director shall direct and supervise the employees of the Commission and conduct administrative transactions consistent with the law and rules and necessary to the proper functioning of the office and staff of the Commission.
- B. The Personnel Director shall conduct classification, salary, and rules studies. The Director shall plan and administer examinations for the selection of classified employees, monitor the assignment and transfer of employees by the Board and shall make such other investigations as directed by the Commission or as are deemed necessary by the Director. The Director may be designated as a hearing officer in accordance with Education Code Section 88131.
- C. In cases where two or more rules appear to be in conflict, or when no rule provides a clear-cut answer to a problem, the matter shall be decided by the Personnel Director, subject to appeal to the Commission.



Rule 2.4

Rule 2.4 MISCELLANEOUS PROVISIONS (EDUCATION CODE SECTIONS 88073, 88086)

2.4.1 BUDGET

- A. The Personnel Director shall prepare and submit to the Commission a proposed operating budget for the Commission for the next ensuing fiscal year. The budget shall be submitted not later than the appropriate Commission meeting in April.
- B. The Commission shall designate one of its meetings in May at which a public hearing on its proposed budget will be held. At the time the Commission schedules the public hearing as required in Education Code Section 88073, it shall direct the Personnel Director to forward a copy of the proposed budget to the Board of Trustees and notify the Board of the time, date, and place of the public hearing. Board and administration representatives shall be invited to attend the public hearing and present their views on the proposed budget.
- C. Prior to adoption of its budget the Commission will hear and fully consider all comments and suggestions that may be offered by District administration, the Board, or other concerned persons or organizations. Efforts shall be made to resolve any differences that may exist between the Commission and Board.
- D. When approved by the Commission the budget shall then be submitted to the County Superintendent of Schools in accordance with Education Code Section 88073.

2.4.2 ANNUAL REPORT

- A. The Personnel Director shall prepare, as required by Education Code Section 88086, an annual report of Commission activities. When approved by the Commission, the annual report shall be submitted to the Board of Trustees and the college community.
- B. The report shall be prepared for Commission approval as soon after each fiscal year as possible and no later than the last meeting in September. The report shall cover Commission activities for the preceding fiscal year.

2.4.3

LEGAL COUNSEL FOR THE PERSONNEL COMMISSION

- A. The legal counsel of the governing board shall aid and represent the Commission in all legal matters. If the legal counsel does not respond to a written request by the Commission for aid or representation within 15 working days of receipt of the written request, the counsel is deemed to have refused to aid or represent the Commission in that matter.
- B. The legal counsel shall refuse to represent the Commission in circumstances in which the counsel knows, or has reason to know, that at the time the request is made a conflict exists between the interests of the Commission and the interests of the governing board or the school district.
- C. If the legal counsel refuses to aid or represent the Commission in a legal matter, the Commission may employ its own attorney, and the reasonable cost thereof shall constitute a legal charge against the general funds of the school district, whether or not the many costs for such legal services appear on the Commission's budget.

PERSONNEL COMMISSION  
SANTA MONICA COLLEGE

MERIT RULES  
CHAPTER III

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## **CHAPTER III -- POSITION CLASSIFICATION PLAN**

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## CHAPTER III

### CLASSIFICATION OF POSITIONS

#### Rule 3.1 THE CLASSIFIED SERVICE

##### 3.1.1 POSITIONS INCLUDED

(Education Code Sections 88076, 88004)

- A. All positions established by the Governing Board and the Personnel Commission that 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 employees. The employees and positions shall be known as the classified service.
- B. No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exemptions established in the law shall be employed outside the classified service.
- C. Nothing in this section shall be construed to prohibit the employment of an academic employee, nor shall the possession of academic qualifications be grounds for the elimination of an individual from consideration for employment in a classified position.

##### 3.1.2 EXEMPTION FROM THE CLASSIFIED SERVICE

(Education Code Sections 88076, 88004)

- A. Generally the following shall be exempt from the classified service:
  - 1. Faculty and administrative positions which require academic qualifications.
  - 2. Part-time recreation positions.
  - 3. Full-time students of the District employed part-time by the District.

Section 3.1.2.A

4. Part-time students of the District employed part-time in any college work study program, or in a work experience education program conducted by a community college district per Education Code Section 78240 and which is financed by state or federal funds.
5. Full-time students enrolled in a graduate program employed as college student interns.
6. Apprentice positions.
7. Positions established for employment of professional experts employed on a temporary basis for a specific project by the Governing Board or by the Personnel Commission, shall be exempt from classified service, and;
8. Positions assigned to teach Community Services fee courses.

B. Special Categories (Education Code Section 88012)

1. Staff Assistants and Field Representatives: The Governing Board may create positions of staff assistants or field representatives to directly assist the Board or individual Board members. Such positions, if created, are exempted from the provisions of these rules insofar as they relate to position classification, recruitment, employment, and salary setting.
  - a. Persons employed in such positions shall be members of the classified service for all purposes except that they may not achieve permanency in the classified service as a result of this service. Staff assistants shall serve at the pleasure of the Board. A field representative shall serve at the pleasure of the individual Board member.

## Section 3.1.2.B

- b. If a permanent classified employee is appointed to serve in such an exempt position, he/she shall retain status as a permanent employee. If he/she is terminated from the exempt position, he/she shall have displacement rights in his/her former class in the same manner as if he/she had been laid off for lack of work or lack of funds.

### 2. Community Representatives (Education Code Section 88078)

Positions established for the employment of community representatives in an advising or consulting capacity for not more than 90 working days in a fiscal year shall be exempt from the classified service provided that:

- a. The authorized duties are not those normally assigned to a class of positions in the classified service;
- b. The authorized duties are approved by the Personnel Commission in advance of employment, and
- c. A regular classified employee of the District does not receive a concurrent appointment to such a position.

### 3. Independent Contractors

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, etc. A person with an employer-employee relationship with the District shall not be an Independent Contractor.



### Section 3.1.2.B.3

- a. Individuals legitimately hired to provide service under contract shall not be considered employees of the District.
- b. Employees of the District may not be hired as consulting contractors.
- c. Architectural and engineering firms employed on a temporary basis by the Board of Trustees or Personnel Commission shall be exempt from the classified service when so designated by the Personnel Commission (Education Code Section 88077).

Chapter 3 revisions approved by Personnel Commission 01/07/04

#### 4. Professional Experts

- a. When a professional expert assignment is to be made, the administration shall submit to the Director of Classified Personnel a description of the project, its duration, and the duties to be performed. Professional expert assignments shall not be made to avoid payment of overtime to the assigned employee; nor shall a limited-term position be filled by a professional expert assignment if the duties and responsibilities fit an existing class for which a reemployment or eligibility list exists.
- b. In order to be exempted from the classified service as a professional expert, an individual must be recognized as such by reputable members of his/her own profession, as evidenced by one of the following:
  - 1. Approval of a committee of members of his/her own profession.
  - 2. Certification of license to practice that profession by a government agency, if such license is established.

Section 3.1.2.B.4

3. Listing in such publications as the *Biographical Directory of American Men and Women of Science or Leaders in Education*, where members of their own profession choose individuals for listing.
4. By membership in professional honor societies limited to that profession.
5. By advanced degrees in a recognized university with a major in the field of that profession.
6. By equivalent criteria acceptable to the Commission.

3.1.3 CLASSIFICATION OF POSITIONS EXEMPTED FROM THE CLASSIFIED SERVICE (NON-MERIT AND PROFESSIONAL EXPERT POSITIONS)

(Education Code 88076 & 88077, 88078)

The following is the process for the approval of all non-merit positions:

- A. The District's Human Resources office will request all proposed non-merit positions be filled using the position requisitioning process.
- B. The District Human Resources office will send to the Personnel Commission a description of the duties and responsibilities of all positions that have been requisitioned that are proposed to be filled in non-merit classifications or to be filled utilizing Professional Experts.
- C. The Personnel Commission will review the duties and responsibilities and advise the District if they are or are not accurately described by a non-merit classification or are otherwise exempted from the classified service.
  1. If the duties are not anticipated by any of the classifications in the classified service then the Personnel Commission will approve the position as a non-merit position or as a Professional Expert.

### Section 3.1.3.C

2. If the duties are captured by an existing class specification within the classified service then the Personnel Commission will so notify the District and assign the appropriate classification to the proposed job.
- D. No position shall be filled in a non-merit classification that has not been reviewed by the Personnel Commission for allocation to the appropriate class.

#### 3.1.4 "PART-TIME" DEFINED

(Education Code Section 88076)

A part-time position, for the purpose indicated in the exemption rule, is one for which the assigned time, when computed on an hourly basis, is less than 35 hours per week.

#### 3.1.5 EFFECT OF EXEMPTION

- A. Any position or employee lawfully exempted from the classified service shall be excluded from the benefits and burdens imposed by these rules, except as provided by law or the Board of Trustees.
- B. The Director of Classified Personnel shall be responsible for interpreting this policy regarding the employment of personnel.

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3.1.6 PROFESSIONAL EXPERT ASSIGNMENTS

(Education Code Section 88076)

- A. When a professional expert assignment is to be made, the administration shall submit to the Director of Classified Personnel a description of the project, its duration, and the duties to be performed. Professional expert assignments shall not be made to avoid payment of overtime to the assigned employee, nor shall a limited-term position be filled by a professional expert assignment if the duties and responsibilities fit an existing class, for which a reemployment or eligibility list exists.
  
- B. In order to be exempted from the classified service as a professional expert, an individual must be recognized as such by reputable members of his/her own profession, as evidenced by one of the following:
  - 1. Approval of a committee of members of his/her own profession.
  - 2. Certification of license to practice that profession by a government agency, if such license is established.
  - 3. Listing in such publications as the *Biographical Directory of American Men and Women of Science or Leaders in Education*, where individuals are chosen for listing by members of their own profession.
  - 4. By membership in professional honor societies limited to that profession.
  - 5. By advanced degrees in a recognized university with a major in the field of that profession.
  - 6. By equivalent criteria acceptable to the Commission.
  
- C. Evidence of professional qualifications must be presented to the Commission at the time the written request for temporary appointment is made. Authorization for service as a professional expert shall not exceed six months. Additional service required shall be subject to approval by the Commission.

3.1.7 APPRENTICES

(Education Code Section 88083)

- A. The Board of Trustees and the Personnel Commission encourage the establishment of an apprenticeship program to train current employees and other qualified personnel, who are properly motivated, and who pass the necessary screening examination set up by the California Apprenticeship Council, in those classifications where a labor market shortage continues to exist. The establishment of such a program shall be subject to the provisions of Education Code Section 88083.
1. The Commission may classify positions as apprentice positions where the principal requirement is that of learning to perform efficiently, by study and practice, specific duties concerning which a definite plan of systematic instruction and special supervision has been approved by the California Apprenticeship Council for the designated trade.
  2. The Governing Board of the school district must adopt an apprenticeship-training plan approved by the California Apprenticeship Council.
  3. No assignment to any position classified as an apprentice position shall be allowed to continue beyond the predetermined apprenticeship period approved by the California Apprenticeship Council for the designated trade, except that the school district's joint apprenticeship committee may approve retention of an employee as an apprentice up to six months beyond the predetermined apprentice period.
  4. Selection of eligibles shall be made in accordance with their position on employment lists established by competitive or qualifying examinations.
  5. The provisions of Section 88033 of this code shall be applicable to apprentice positions, provided that relative age may be considered as a factor in the ranking of candidates for apprentice positions. Credit for prior training in a regularly indentured apprenticeship program shall be given to qualified candidates.

### Section 3.1.7.A

6. In all cases of apprenticeship probationary periods, the standards of duration and qualifications shall be fixed by the Commission, insofar as they do not exceed the maximum standards set up by the California Apprenticeship Council. Termination for cause may be prescribed for any apprentice who fails to attain the predetermined standards of apprenticeship, or for cause as prescribed by the rules of the Commission for regular employees.
7. The Commission shall recommend to the Governing Board a graduated scale of compensation rates for the various levels of apprentices, taking into consideration the percentage relationship to the District's journey level wage of the trade as provided in the statement of policies of the California Apprenticeship Council.
8. The Commission may determine that promotional examinations shall be held for entrance into various levels of apprentice positions and entrance into journey level positions in a skilled trade.

Rev. approved by Personnel Commission 01/07/04

### 3.1.8 RESTRICTED POSITIONS AND EMPLOYEES

(Education Code Sections 88007, 88008, 88079, 88079.1)

- A. Persons employed under specially funded programs and programs which are restricted to the employment of persons of low income groups, or from impoverished areas or other criteria which restricts the privilege of all citizens to compete for employment shall be considered "classified restricted" employees.
- B. Positions established from general funds in the categories as aides in an instructional setting or other positions involving personal contacts with students which are established to assist school staff personnel responsible for school community relations; educational support services for areas such as counseling, library, or health, or the correction or prevention of behavioral problems, may also be designated as "restricted."

### Section 3.1.8.C

- C. Positions established solely for the employment of persons having physical, mental, or developmental disabilities may also be designated as “restricted.”
- D. Persons employed in “restricted” positions shall be classified employees for all purposes except:
  - 1. They may not attain permanent status;
  - 2. They shall not be accorded seniority rights;
  - 3. They may not be given provisional appointments concurrent with status in a restricted position; and
  - 4. They are not eligible to compete in promotional examinations in the regular classified service.
- E. The selection and retention of restricted employees shall be made on the same basis as that of persons selected and retained in positions as part of the regular school program.
- F. The selection and retention of restricted Instructional Aides, or persons having mental disabilities, shall not be subject to the examination procedure prescribed in Chapter V of these Rules.
- G. At any time after completion of six months of satisfactory service, employees serving in restricted positions may take such a qualifying examination as is required for all other persons serving in the same class. If an employee successfully completes the examination and attains placement on the eligibility list, as a result thereof, and regardless of his numerical standing on the eligibility list, he shall be considered a part of the regular classified service even though he may continue to serve in a restricted position, and be accorded full rights, benefits, and burdens of a regular classified employee. Seniority rights shall be counted as of the date of the employee’s initial appointment to the restricted position.

## Section 3.1.8.H

- H. Funds derived from the Federal Emergency Employment Act or any similar law enacted to provide transitional employment in public service positions for unemployed or underemployed persons shall not be expended for work that:
  - 1. Would otherwise have been performed at federal, state, or local expense;
  - 2. Will not result in an increase in the employment which would otherwise be available;
  - 3. Which would result in the displacement of members of the classified service, including partial displacement, such as reduction in the hours of non-overtime work or wages or employment benefits;
  - 4. Which will impair the existing rights of permanent members of classified service;
- I. Notwithstanding the provisions of this Rule, positions which are established pursuant to Title VI of the Comprehensive Employment Training Act of 1973 (CETA) as amended and which are limited to projects of not more than one year duration shall be exempt from the classified service.

Rev. approved by Personnel Commission 01/07/04

### 3.1.9 WEEKEND/HOLIDAY POSITIONS

(Education Code Sections 88204 and 88026)

- A. The Governing Board may, in accordance with Education Code Section 88204, create a position or class of positions which requires and permits the holders of such positions(s) to work only on weekends (Saturdays and Sundays) and holidays. If so created the Commission shall, in classifying the position:
  - 1. Establish a salary scale which recognizes the peculiarity of the work and the days and hours required to work.



## Section 3.1.9.A

2. Exempt employees serving in such positions from overtime pay for work required to be performed on a holiday. However overtime shall be paid for hours required to be worked in excess of 8 on any Saturday, Sunday or holiday unless the class is specifically exempted in accordance with Education Code Section 88026 (for example, recreation and security classes).
3. Assure itself that the position(s) being created is not being created to avoid payment of overtime to otherwise qualified employees. If it does find that such position(s) is being created to avoid overtime payment, it shall refuse to classify the position(s) and will notify the Governing Board accordingly.

Rev. approved by Personnel Commission 01/07/04

### Rule 3.2 GENERAL CLASSIFICATION RULES

#### 3.2.1 PRINCIPLES OF POSITION CLASSIFICATION

Under the provisions of the Merit System, the Personnel Commission seeks to provide fair compensation to all employees in the classified service on the basis of "like pay for like work." In establishing a classification plan for the District, the Personnel Commission seeks to maintain a reasonable balance between broad and narrow classifications. A broad classification groups positions according to more general activities, and a narrow classification places positions with very specialized requirements into distinct classes. Broad groupings have been found to be more appropriate to entry-level positions and narrow groupings to be more effective for technical and specialized positions.

#### 3.2.2 ASSIGNMENT OF DUTIES

(Education Code Section 88009)

- A. The Board of Trustees shall fix and prescribe the duties and responsibilities of all positions in the classified service except those on the Personnel Commission staff. When the duties being performed by an employee are found to be inconsistent with classification to which the position has been officially assigned, the Director of Classified Personnel shall report the facts to the responsible administrator in order that appropriate action may be taken.

3.2.3 GENERAL CLASSIFICATION PLAN

- A. The Personnel Commission shall classify all positions within the jurisdiction of the Governing Board or the Commission, except those positions that the Personnel Commission determines are exempt from the classified service, pursuant to Rule 3.1.2. The Personnel Commission shall maintain a classification plan for all positions. The positions shall be known as the Classified Service.
- B. For purposes of this Rule, classification shall include, but not be limited to:
  - 1. Allocation of all positions to appropriate classes;
  - 2. Arrangement of classes into occupational hierarchies (job families);
  - 3. Determination of reasonable percentage relationships between classes within the occupational hierarchies;
  - 4. Determination of reasonable percentage relationships between occupational hierarchies.
  - 5. Preparation of written class specifications.
- C. The Personnel Commission shall maintain a classification plan for all positions in the classified service organized by class series and, group, and job family. The list of classes shall contain designation of the salary rate or range applicable to each class.

3.2.4 CLASS SPECIFICATIONS

- A. For each position, as initially or subsequently established by the Board of Trustees, there shall be established and maintained a class specification approved by the Personnel Commission which shall include:
  - 1. The official class title;
  - 2. A statement of the concept of the class, generally defining the type of duties and responsibilities that would typically be performed by positions in the class;

#### Section 3.2.4.A

3. A statement of distinguishing characteristics that differentiates the class from other related or similar classes;
4. A statement of the range of supervision received;
5. A statement of the range of supervision exercised;
6. A listing of the examples of duties to be performed by persons holding positions allocated to the class. This list shall not be construed to be exhaustive and/or restrictive, but descriptive and illustrative of the types of duties that may be performed by persons holding positions in the class;
7. A listing of the critical knowledge, skills and abilities which an applicant or an employee must possess to successfully perform the essential duties of the positions in the class;
8. A statement of the minimum qualifications for service in the particular class. The minimum qualifications may include education, experience, and/or any license, certificates or other special requirements for employment or service in the particular class; and must reasonably relate to the assigned duties of any position allocated to the class;
9. A list of licenses or other special requirements for employment or service in the particular class as appropriate.
10. A statement about the working environment and physical demands of positions allocated to the class;
11. 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.
12. Minimum qualifications may never require a teaching, administrative or other credential nor may they require work experience which would restrict competition to holders of credentials.

## Section 3.2.4.A

13. The title of the class having been once established, shall be employed as the title of all positions in the class in payrolls submitted to the Personnel Commission for auditing and in the records and correspondence of the Personnel Commission and the Board of Trustees.

Rev. approved by Personnel Commission 01/07/04

## 3.2.5 INTERPRETATION OF CLASS SPECIFICATIONS

- A. The class specifications and their various parts are declared to have the following force and effect:
  1. The concept of the class and examples of duties are descriptive and illustrative only and not restrictive and exhaustive. They indicate 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. 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 Personnel Commission.
  2. 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, apart from their context but to the general duties, responsibilities, specific tasks, and qualification requirements as affording a picture of the positions included in the class. A classification is deemed appropriate when it describes eighty (80) percent of the duties and responsibilities assigned to a position.

### Section 3.2.5.A

3. Each class specification is construed in its proper relationship to other descriptions, particularly those of classes in the same series and group of classes, in such manner as to maintain a proper gradation in the series in which the class is located and proper differentiation within the group of classes.
4. Qualifications commonly required of the incumbents of all positions, such as good physical ability to perform the duties of the position, honesty, sobriety, and industry, even though not specifically mentioned in the descriptions, are implied in the qualification requirements.
5. 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 to positions allocated to the class, but does not require a particular form or content of test or testing procedure.
6. The class title shall always be used with the meaning set forth in the remainder of the specification.
7. The following personal qualification requirements apply to all classifications 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 with or without reasonable accommodation and without presenting a direct and imminent threat to the health and safety of others; dependability; good judgment; good moral character and reputation; loyalty; ability to work cooperatively with others; and willingness and ability to assume the duties and responsibilities and to conform to the conditions or work characteristics of the particular position.

Section 3.2.5.A (cont.)

8. The statement of qualifications 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 qualification of candidates seeking appointment, but does not require a particular form or content of test or testing procedure.

Rev. approved by Personnel Commission 01/07/04

3.2.6 CREATION OF NEW POSITIONS

(Education Code Sections 88095, 88076)

- A. When District management proposes to create a new position, it shall prepare a Position Description Questionnaire (PDQ) with the approval signatures of the immediate supervisor and/or manager, if deemed necessary. In all cases the appropriate Vice President must sign the PDQ.
- B. Following administrative approval the Director of Classified Personnel shall conduct a study of the new position and shall transmit a report of his/her findings and recommendations to the immediate supervisor, Vice President for the department and the District Human Resources office for review.
- C. The Director of Classified Personnel shall present the findings and recommendations for action to the Personnel Commission. The agenda report shall include recommendations to:
  1. Classify the position and determine whether the position should be allocated to an existing class or to a new class;
  2. Designate the title, the class description, the recommended qualifications, and the unit or management allocation of this position;

### Section 3.2.6.C

3. Allocate the new class to the appropriate range on the salary schedule and determine the relationship between this class and other related classes.

Following action by the Personnel Commission, the Director of Classified Personnel shall notify all interested parties of the Personnel Commission's decision.

Rev. approved by Personnel Commission 01/07/04

### 3.2.7 ALLOCATION OF LIKE POSITIONS TO EXISTING CLASSES

- A. All positions which substantially consist of comparable duties, responsibilities, and qualifications shall be allocated to the same class.

### 3.2.8 REORGANIZATION OF POSITIONS

- A. Reorganization of a position shall be defined as a management initiated change in organization, staffing, and/or work distribution resulting in the assignment or change of a substantial part of the regular duties or responsibilities of a position.
- B. Whenever the immediate supervisor proposes to reorganize a position, he/she shall prepare a Position Description Questionnaire (PDQ) specifying the new duties to be assigned and/or the duties to be changed. He/she shall submit the PDQ for all required administrative approval signatures. A copy shall be sent immediately to the Director of Classified Personnel.
- C. Upon administrative approval the Director of Classified Personnel shall conduct a review of the proposed addition(s) and/or change(s) to the duties of the position in order to determine if the position should be allocated to a different class.

#### Section 3.2.8.D

- D. The Director of Classified Personnel shall base his/her determination on the following factors:
  - 1. Whether the overall addition and/or change of duties represents a major change in the level of responsibility of the position.
  - 2. Whether the addition and/or change of duties is significant enough to require a substantial change in the qualification requirements of the position.
- E. The Director of Classified Personnel shall report his/her findings to the immediate supervisor and the appropriate administrative staff. If he/she determines that the change constitutes a reorganization, and the change is administratively approved, the proposed reorganization shall be presented to the Board of Trustees to approve the abolishment of the old position and the establishment of a new position. The Director of Classified Personnel shall then prepare a recommendation to the Personnel Commission for classification of the position as described above in Rule 3.2.5.
- F. Reorganized positions shall be filled through regular competitive examination procedures. Incumbents of reorganized positions who are not appointed to the new position may be eligible to exercise transfer or bumping rights as provided in Rule 13.3.

Rev. approved by Personnel Commission 01/07/04

#### 3.2.9 CLASSIFICATION SYSTEM MAINTENANCE

- A. The Director of Classified Personnel shall review the duties and responsibilities of positions as necessary to determine their proper classification. Each year the Director of Classified Personnel shall prepare a schedule of anticipated review projects and present it for approval to the Personnel Commission.



### Section 3.2.9.B

- B. When conducting a review of a group of positions, the study process shall generally include the following steps:
  - 1. An introductory meeting with incumbents and supervisors to explain the study procedure.
  - 2. Completion of Position Description Questionnaires by incumbents.
  - 3. Review and approval of questionnaires by appropriate supervisors.
    - a. In the event of a dispute over the assignment of duties, an employee may submit the questionnaire to the Personnel Commission Office which shall review it with the supervisor.
  - 4. Audit of positions by the Personnel Commission staff.
  - 5. Data review and salary data gathering by the Personnel Commission staff.
  - 6. Presentation of findings and recommendations to supervisors and incumbents.
  - 7. Review and determination of appeals by the Personnel Commission staff.
- C. Following the conclusion of this process, the Director of Classified Personnel shall present his/her final findings and recommendations to the Personnel Commission for action.
- D. Failure of an employee to fill out a classification study questionnaire or provide other information concerning the duties of his/her position, shall make the employee ineligible for reclassification at the discretion of the Director of Classified Personnel.

### **3.2.10 WORKING OUT OF CLASS (Education Code Section 88010, 88087, 88105-88107)**

#### **A. Concept of Working Out of Classification**

1. Each classified employee shall be required to perform the duties of the position approved by the Board and classified by the Personnel Commission for the class to which he or she is assigned. Each employee may be required to perform other related duties consistent with the concept of the classification to which the position is assigned.
2. Classified employees shall not be required to perform duties and responsibilities which are not fixed and prescribed for their positions or are not consistent with the concept of the classification of their current position for any period of time which exceeds five (5) working days within a fifteen (15) calendar day period, or equivalent (i.e., four 10-hour working days within a fifteen (15) day calendar period).
3. 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 beyond the time limits specified in Merit Rule 7.2 (Provisional Appointments) and Merit Rule 7.4 (Limited Term Appointments).

#### **B. Procedure for Supervisor Requesting Approval for Working Out of Class**

1. The supervisor shall request approval for an employee to work out of class when an employee is assigned to perform duties that are not allocated to the existing class. Requests shall be submitted to the Director of Classified Personnel on the approved form.
  - a. The request shall be submitted no later than ten (10) working days after the start of the assignment.
  - b. The request must contain a list of the newly assigned duties and must be approved by the supervisor, department head and the appropriate Vice President.
2. The Personnel Commission shall conduct a review of the newly assigned duties and shall determine whether they are at a higher range. The Director of Classified Personnel shall prepare a report of the findings, including the recommended pay differential, if any, for the temporary assignment.
3. The Director of Classified Personnel will advise the Office of Human Resources of the findings and shall present those findings, including the recommended pay differential, to the Personnel Commission for approval. Confirmation of this approval shall then be sent by the Personnel Commission to the supervisor and the employee, and forwarded to the Board for final approval.

C. Salary Adjustments for Working Out of Class

1. When the Director of Classified Personnel determines that an employee is working out of class for any period of time which exceeds five (5) working days within a fifteen (15) calendar day period or equivalent (i.e., four 10-hour working days within a fifteen (15) calendar day period), the employee shall be compensated as follows:
  - a. The salary of the employee shall be adjusted upward to the appropriate pay differential in the higher classification for the entire time the employee has been working out of classification. Upon determination by the Personnel Director, the employee working at the higher classification level less than 50% of the duration of the working out of class assignment will receive 50% of the pay differential; the employee working at the higher classification level at least 50% of the duration of the working out of class assignment will receive 100% of the pay differential.
  - b. No changes shall operate to disturb the relationship that compensation schedules bear to one another, as the relationship has been established in the classification made by the Personnel Commission.

D. Employee Rights and Responsibilities

If, after consultation with the immediate supervisor, the employee believes that assigned duties are at a higher range for a substantial part of the assignment, the employee shall notify the Director of Classified Personnel, in writing, no later than forty-five (45) working days after the start of the assignment.

- E. Any request submitted after the applicable time period shall take effect only from the date of receipt in the Personnel Commission Office.

3.2.11 POSITIONS REQUIRING SPECIAL LANGUAGE OR SKILLS

The Board of Trustees 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 special requirement. Examples of special requirements include the need for the incumbent to read, speak and write a foreign language; an administrative secretary classification where one position requires the routine use of shorthand skills, or a gardener classification where one position requires a pesticide certificate.

- A. 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 the ranges.
- B. If a request to designate a position in a class as requiring a specialized 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.

3.2.12 CONFIDENTIAL DIFFERENTIAL  
(Government Code 3540.1, 3544.1 and 3544.7 amended effective 10/17/03)

The Board of Trustees may designate certain positions confidential. A confidential employee is any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions. The Board of Trustees' determination that a position is "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 the position's classification and pay relationships.

- A. The Commission shall have the right to designate a differential salary rate to compensate incumbents in confidential positions for the unique nature of the position.

Rule 3.3 RECLASSIFICATION (Education Code Section 88104)

3.3.1 RECLASSIFICATION POLICY

The Director of Classified Personnel 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 or she will advise the District administration of his or her findings. If the Director of Classified Personnel finds that a position does not warrant reclassification, he or she will also report these findings to the District administration.

3.3.2 RECLASSIFICATION SYSTEM MAINTENANCE

The Personnel Commission shall maintain a system of continuous classification review. The Commission will conduct studies, as it deems necessary, to analyze the classification system and maintain its internal alignment in the classified service.

3.3.3 RECLASSIFICATION OF POSITIONS

- A. The basis for reclassification of a position shall be the gradual accretion or growth of duties, and not a sudden change occasioned by a reorganization or the assignment of completely new duties and responsibilities. Determinations as to gradual accretion will be on the basis of guidelines provided by Personnel Commission Rules resulting in the reclassification of position from its current class to another class.

### Section 3.3.3.B

- B. To qualify for reclassification, the change in duties and responsibilities must:
1. Affect a significant portion of the duties and responsibilities of the position;
  2. Be so significant as to clearly warrant a change in the title and qualification requirements needed to perform the duties of the position;
  3. Occur through a gradual accretion of duties and not occasioned by the sudden assignment of wholly new duties.
- C. Recommendations as to the gradual accretion will be made by the Director of Classified Personnel. The Personnel Commission shall be the final approving authority.

### 3.3.4 DEFINITION OF GRADUAL ACCRETION (Education Code 88104 amended)

Gradual accretion of duties is the change over time in the duties and responsibilities of a position, and not those occasioned by a sudden addition or deletion of duties. For purposes of these Rules, gradual accretion of duties must occur over two (2) or more years of regular service.

3.3.5 RECLASSIFICATION ANALYSIS  
(Education Code 88081)

Determination as to whether gradual accretion has occurred will be based on an analysis of the duties and responsibilities currently assigned to the position. The analysis will consist of a review of the old Position Description Questionnaire (PDQ) compared to the new one submitted with the reclassification request. The analysis will assess:

- A. The nature and scope of each identified change in duties and responsibilities.
- B. The date the incumbent began the performance of the newly acquired duties and responsibilities.
- C. Clear and convincing evidence of the employee's continuing performance of the added duties and responsibilities.
- D. The extent to which the new duties and responsibilities are more accurately defined by a different classification than the one in which the position currently resides.

3.3.6 REQUESTS FOR RECLASSIFICATION

- A. Requests for reclassification of an existing position shall be submitted in writing to the Director of Classified Personnel.
- B. The supervisor, the employee, or the collective bargaining unit representing employees in positions in the subject classification may initiate a request.
- C. The written request shall include a statement indicating the reason(s) the supervisor and/or the employee feel the reclassification is justified.
- D. A completed Position Description Questionnaire (PDQ) showing the new duties and responsibilities must accompany the request.
- E. At least two (2) years must elapse before another request for reclassification can be initiated for the same position.

3.3.7 RECLASSIFICATION REVIEWS

- A. Within fifteen (15) calendar days from receipt of a reclassification request, the Director of Classified Personnel shall provide the employee with written acknowledgement indicating the general expected time schedule for the audit of the position.
- B. The audit of the position shall be conducted according to the procedures approved by the Director of Classified Personnel and shall include the appropriate steps of the process listed in Rule 3.2.8, Review of Positions.

Rev. approved by Personnel Commission 01/07/04

3.3.8 NOTIFICATION OF RECLASSIFICATION  
(Education Code 88076, 88104.5)

The Director of Classified Personnel will provide a notification of the results of the reclassification audit to the incumbent(s) affected, supervisor(s), the District administration and the employee's exclusive representative within sixty (60) calendar days. The notice will indicate whether the audit findings support reclassification up or down, or that the position be sustained in the current classification. Notice of the recommendation will be given to all the parties listed above before the Personnel Commission adopts the classification proposal.

3.3.9 EFFECTIVE DATE OF RECLASSIFICATION  
(Education Code 88104, Amended August 2003; and 88104.5)

- A. Changes in classification and salary resulting from the permanent reclassification of a position shall be effective no later than whichever of the following dates is applicable:
  - 1. The first day of the month following the date on which the Personnel Commission takes action to approve reclassification of the position, provided the employee is eligible to be reclassified with his/her position without examination as specified in these rules.



Section 3.3.9.A

2. The first day of the month following the date the employee becomes fully qualified for the position by successfully completing all parts of the selection procedure.
- B. Reclassification of a position shall not have retroactive effect.

3.3.10 RECLASSIFICATION OF A VACANT POSITION

If a reclassification occurs to a vacant position, the position shall be filled through normal selection procedures.

3.3.11 EFFECTS OF RECLASSIFICATION ON INCUMBENTS  
(Education Code Section 88104)

Whenever a position or entire classes of positions are reclassified, the rights of the incumbents will be determined in accordance with these Rules and Regulations.

A. Reclassification Upward

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

The reclassification of positions to a higher salary range shall have the following effect on incumbents:

1. When one or more positions in a class, are reclassified to a higher classification, the incumbent or incumbents who have a continuous employment record of two (2) or more years in the class shall be reclassified with the position, without examination.

### Section 3.3.11.A

2. When one or more positions in a class are reclassified to a higher classification, the incumbents who do not have a continuous employment record of two (2) or more years in the class shall not be reclassified to the higher class. Positions in the higher class will be filled through competitive examination that shall include a promotional examination open to permanent employees of the District. Incumbents who are unsuccessful in the examination may exercise the same rights as listed in Rule 13.3.1(B).
3. When one or more positions in a class are reclassified to a higher classification, the incumbents who do not have a continuous employment record of two (2) or more years in the class shall not be reclassified to the higher class. Positions in the higher class will be filled through competitive examination that shall include a promotional examination open to permanent employees of the District. Incumbents who are unsuccessful in the examination may exercise the same rights as listed in Rule 13.3.1(B).
4. The salary placement of an incumbent who is reclassified upward with his/her position shall be in accordance with Rule 12.2.10.

#### B. Reclassification Downward

The reclassification of a position or group of positions to a class with a lower salary range, shall have the following effect on incumbents:

1. If the incumbent has been performing satisfactorily, he/she shall be transferred to any vacant position for which he/she is qualified and which is at his/her present salary range. If no vacancy exists, the employee may elect one of the following:
  - a. to demote in place;
  - b. to transfer to a vacant position at the same range;
  - c. to bump in class or to a previous lower class;
  - d. to be laid off.

C. Abolishment of Position

When a position is abolished, the incumbent may be transferred, demoted, or laid off, as determined by these rules.

D. Period of Ineligibility for Reclassification

An employee who has been reclassified with his/her position, shall be ineligible for subsequent reclassification with his/her position for a period of at least two (2) years from the date on which the reclassification became effective.

E. Effect of Reorganization or Reassignment on Classification

Any positions which are created or changed as a result of a sudden reorganization or assignment of new duties and responsibilities shall be filled through normal competitive selection processes as provided in these rules. This rule shall apply to positions that are occupied at the time of reclassification. If reclassification occurs in a vacant position, the position shall be filled through normal selection processes as determined by these rules.

Rev. approved by Personnel Commission 01/07/04

3.3.12 REEMPLOYMENT LIST FOR DISPLACED INCUMBENTS

- A. Any displacement of a regular employee which results from the reclassification of a position or class of positions, shall be considered a layoff for lack of work and an appropriate reemployment list shall be established in accordance with these rules. The employee shall have the right of reemployment into his/her previous classification for a period of up to 39 months, provided that the class has not changed substantially or been abolished as the result of a classification study.
- B. This rule shall be followed in all instances where reclassification has resulted in a position or group of positions being upgraded, downgraded, sustained, or laterally reallocated to a new classification.

3.3.13 REAPPRAISAL OF ELIGIBILITY LIST DUE TO RECLASSIFICATION

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 for the class, if any, to determine whether or not it should be changed to reflect the new class title or abolished. The Director of Classified Personnel shall recommend to the Personnel Commission whether the current eligibility and employment lists are to be reclassified. Salary reallocation of classes shall have no effect on lists, unless the Personnel Commission makes a specific finding to the contrary.

3.3.14 IMPACT OF RECLASSIFICATION ON SENIORITY

An employee who is reclassified transfers his or her seniority to the new classification.

(Rev. approved by Personnel Commission 01/07/04)

PERSONNEL COMMISSION

SANTA MONICA COLLEGE

MERIT RULES

CHAPTER IV

Presented to the Personnel Commission for First Reading on June 26, 1991.

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## **CHAPTER IV -- APPLICATION FOR EMPLOYMENT**

### **Rule 4.1** APPLICATION

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Section	4.1.1	Application Procedure
	4.1.2	General Qualifications of Applicants

### **Rule 4.2** DISQUALIFICATION OF APPLICANTS AND CANDIDATES

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Section	4.2.1	Causes for Disqualification
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### **Rule 4.3** APPEAL OF DISQUALIFICATION

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Section	4.3.1	Procedures for Appeal of Disqualification
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## CHAPTER IV

### APPLICATION FOR EMPLOYMENT

#### Rule 4.1

#### APPLICATION

Under the provisions of the Merit System, the Personnel Commission seeks to provide a fair and impartial application process open to employees and members of the public without discrimination on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender, or age.

#### 4.1.1

#### APPLICATION PROCEDURE

- A. All applicants for positions in the classified service shall file an application on the official form provided by the Personnel Commission Office. All questions on the application shall be answered in full and the application shall be filed in the Personnel Commission Office within the specified recruitment period and no later than the deadline date listed on the job announcement bulletin.
- B. Applicants taking more than one examination must file a separate and complete application for each examination unless otherwise directed.
- C. The application form shall contain no questions relative to race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender, or age.
- D. For affirmative action tracking and reporting purposes, data concerning each applicant's ethnicity, gender, age and disability condition(s) will be gathered on an Equal Opportunity Survey Form. The information will be solicited on a voluntary basis and will be maintained in a separate confidential file.

- E. Application files are the property of the Personnel Commission. All application materials are confidential and shall not be returned to the applicant.

4.1.2

GENERAL QUALIFICATIONS OF APPLICANTS  
(EDUCATION CODE SECTIONS 88011, 88033,  
GOVERNMENT CODE SECTIONS 12921, 20983.5)

- A. Applicants must be permanent residents or must otherwise prove their right to work in the United States and must possess all other requirements that are specified in the qualifications established for the class. Every applicant must be mentally and physically competent to perform the duties of the position for which he/she applies.
- B. Every qualified applicant shall have an opportunity to seek, obtain, and hold permanent employment without discrimination on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, sex, or age.
- C. Residency within the District shall not be a condition for application or employment within the District.
- D. No minimum or maximum age limit shall be set as a condition for initial or continued employment in the District, except as provided in Government Code Section 20983.5.
- E. Reasonable accommodation shall be made for disabled persons in the application and employment process in order to eliminate unnecessary barriers to employment.



Rule 4.2

DISQUALIFICATION OF APPLICANTS AND CANDIDATES

4.2.1

CAUSES FOR DISQUALIFICATION (EDUCATION CODE SECTIONS 87010, 87011)

- A. 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:
1. Failure to meet the general qualifications of Rule 4.1.2.A.
  2. Advocacy of the overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.
  3. Conviction either by a plea of guilty or nolo contendere, a court decision or jury verdict, to a charge of a sex or narcotic offense as defined in Education Code Section 87010 or 87011.
  4. A history of drug addiction without acceptable evidence of rehabilitation.
  5. Conviction, without acceptable evidence of rehabilitation, of a crime of violence or moral turpitude or a serious crime whose nature would make the applicant or candidate a poor employment risk; conviction shall be defined as either a plea of guilty or nolo contendere, or a court decision or jury verdict; a conviction record will be evaluated on the following basis: nature, seriousness and circumstances of the offense(s); age of the person at the time of the offense(s); number of convictions; relationship of the offense(s) to the position applied for; evidence of rehabilitation and maturing including the employment record with respect to job responsibility and duration; truthfulness in admitting to the offense(s); and the duties of the class.

## Section 4.2.1

6. Making a false statement or intentionally omitting a significant statement of a material fact requested on the application form.
7. Practicing any deception or fraud in connection with an examination or in order to secure employment.
8. Obtaining or attempting to obtain either directly or indirectly, privileged information regarding test questions or examination content.
9. Dismissal from previous employment for cause if the cause would have subjected the applicant to dismissal by the District under 14.1.
10. Previous dismissal or a resignation in lieu of dismissal from the District unless the District waives this subsection.
11. A record of unsatisfactory service within the District as evidenced by a disciplinary action, a work improvement or unsatisfactory job performance notice, within the previous year.
12. Dishonorable discharge from the armed forces of the United States.
13. Refusal to furnish testimony, other than self-incriminating, at a hearing or investigation before the Personnel Commission or Board of Trustees.
14. Unsatisfactory health conditions which clearly indicate that the applicant or candidate would be unable to perform the duties of his/her job or would endanger his/her health and safety or the health and safety of others.
15. Failure, after due notice, to report for review of any of the above causes for disqualification.

4.3

APPEAL OF DISQUALIFICATION

4.3.1

PROCEDURE FOR APPEAL FROM DISQUALIFICATION

- A. Any applicant disqualified for any of the reasons listed in Rule 4.2 shall be notified in writing, indicating the reasons for disqualification and advising the applicant that he/she has five (5) working days to appeal the decision to the Personnel Director.
- B. Appeal of disqualification shall be based on a clear written statement of the reason(s) why the disqualification action is not warranted.
- C. Any applicant who has appealed a disqualification shall conditionally be permitted to participate in the examination process pending final decision.
- D. Upon receipt of an appeal, the Personnel Director shall conduct an investigation. If the decision is in favor of the applicant, he/she shall be notified and given rights as though the disqualification had not occurred. If the decision is to deny the appeal, the applicant shall be notified of the decision and the reasons thereof within five (5) working days. The decision of the Personnel Director shall be final.

PERSONNEL COMMISSION

SANTA MONICA COLLEGE

MERIT RULES

CHAPTER V

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## **CHAPTER V -- RECRUITMENT AND EXAMINATIONS**

### **Rule 5.1 RECRUITMENT**

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Section 5.1.1 Announcement of Examinations

### **Rule 5.2 EXAMINATIONS**

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Section 5.2.1 Determination of Examinations  
5.2.2 Promotional Examinations  
5.2.3 Open Competitive and Promotional Examinations with  
the Promotional List Taking Precedence  
5.2.4 Dual Certification-Merged List  
5.2.5 Open Competitive Examinations  
5.2.6 Continuous Examinations  
5.2.7 Types of Examinations  
5.2.8 Written Examinations  
5.2.9 Evaluation of Training and Experience  
5.2.10 Oral Interview Panel Examinations  
5.2.11 References of Employment Candidates  
5.2.12 Admittance to Examination  
5.2.13 Special Administration of Examinations  
5.2.14 Test Administration Procedures  
5.2.15 Protest of Written Test Questions  
5.2.16 Notice of Examination Results  
5.2.17 Longevity Preference Credit  
5.2.18 Veteran's Preference  
5.2.19 Review of Examination Records  
5.2.20 Review of Eligibility List

## CHAPTER V

### RECRUITMENT AND EXAMINATIONS (EDUCATION CODE SECTION 88097)

#### Rule 5.1

#### RECRUITMENT

It is the policy of the Personnel Commission to afford all qualified candidates an opportunity to apply for positions in the classified service. Examinations shall be conducted fairly and impartially to afford all candidates the opportunity to demonstrate the skills, knowledge, abilities, and personal characteristics required to qualify for the class.

#### 5.1.1

#### ANNOUNCEMENT OF EXAMINATIONS

- A. The Personnel commission shall approve the holding of examinations for the purpose to either fill vacancies or create lists for the classified service.
- B. No examination announcement may be made, and no part of any examination may be held, until the Governing Board has properly designated the duties of a new class, and the Personnel Commission has approved the classification, including the establishment of minimum education and work experience requirements.
- C. Each examination shall be announced on a job announcement bulletin which shall be distributed to employee work sites and recruitment locations. The recruitment period shall be at least 15 working days. The Director of Classified Personnel shall:
  - 1. prepare and place advertisements in the appropriate media
  - 2. ensure distribution includes sites easily accessible by the general public and all protected groups in accordance with all federal, state, and local laws.

## Section 5.1.1.D

- D. The job announcement bulletin shall contain the following:
1. Information concerning the location of employment, expected number of vacancies, length of the probationary period, and other conditions of employment.
  2. Examples of the scope of duties and responsibilities of the position and the class.
  3. The minimum qualifications and requirements of the class.
  4. The salary, benefits and other compensation.
  5. The closing date for filing applications.
  6. The general content of the examination and the types of tests that may be given.
  7. Such other information as will assist the employees and public in fully understanding the nature of employment and procedures necessary to participate in the examination.

Rule 5.2

EXAMINATIONS (EDUCATION CODE SECTION 88092)

5.2.1

DETERMINATION OF EXAMINATIONS

- A. The Personnel Commission shall determine the standards of proficiency to be required for each examination, and shall determine whether the examination shall be
1. promotional only;
  2. promotional and open-competitive with the promotional list taking precedence;
  3. promotional and open-competitive with a merged list (dual certification);
  4. open-competitive only.



5.2.2 PROMOTIONAL EXAMINATIONS (EDUCATION  
SECTIONS 88100, 88091, 88096)

- A. In determining whether employment opportunities are to be limited to promotional applicants, factors to be considered include:
  - a. The number of qualified promotional candidates available to compete for the class;
  - b. Efforts to seek and employ members of underrepresented groups as identified according to the District's Equal Employment Opportunity Plan.
- B. Promotional examinations shall be restricted to regular employees of the District who meet the prescribed qualifications of the class. Probationary employees in the District may not compete in promotional examinations.
- C. A probationary or permanent classified employee may request to be notified of examinations which occur during recess periods or during a paid or unpaid leave of absence by filing a written or electronic request with the Personnel Commission Office. The notice shall be sent to the address listed by the employee on the written or electronic request.
- D. Promotional eligibles who successfully complete all parts of the examination shall receive longevity preference credit, as referenced in Rule 5.2.17 (Longevity Preference Credit).

5.2.3 OPEN COMPETITIVE AND PROMOTIONAL EXAMINATIONS WITH THE PROMOTIONAL LIST TAKING PRECEDENCE

- A. When an adequate field of promotional applicants does not exist or there is doubt as to its adequacy, the Director of Classified Personnel may advertise the examination among employees and the general public.
- B. Promotional eligibles who successfully complete all parts of the examination shall receive longevity preference credit as referenced in Rule 5.2.17 (Longevity Preference Credit).
- B. The examination procedure shall result in a separate promotional and open competitive eligibility list. The promotional eligibility list shall take precedence.

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5.2.4 DUAL CERTIFICATION-MERGED LIST (EDUCATION CODE SECTION 88103)

- A. Upon the recommendation of the Director of Classified Personnel, the Personnel Commission may authorize the holding of an examination under dual certification. When authorized, the resulting eligibility list shall consist of promotional and open competitive eligibles in one merged list.
- B. Promotional eligibles who successfully complete all parts of the examination shall receive longevity preference credit.

5.2.5 OPEN COMPETITIVE EXAMINATIONS (EDUCATION CODE SECTION 88115)

- A. Open competitive examinations shall be held for all entry level classes and veterans' preference points shall be allowed as specified in Rule 5.2.18. These examinations shall be open to all qualified applicants.
- B. Longevity preference credit shall not be granted.

Rev. approved by Personnel Commission 7/15/15

5.2.6 CONTINUOUS EXAMINATIONS (EDUCATION CODE SECTION 88111)

- A. The Personnel Commission may designate examinations for specified classes which cannot practicably be filled by promotional examinations only, as continuous examinations. Applications shall be accepted as long as the recruitment remains open.
- B. If a general qualifications oral interview is required, the interview panel shall consist of at least two (2) persons. Raters may be employees of the District or the Personnel Commission.
- C. Procedures for review of the examination by the candidate shall be suspended.
- D. Test retaking can be limited as specified by the Personnel Commission job bulletin.

Rev. approved by Personnel Commission 7/15/15

5.2.7 TYPES OF EXAMINATIONS (EDUCATION CODE SECTION 88092)

- A. Examinations shall be administered objectively and shall consist of test parts that relate to job performance. The parts may be any of the following:
1. Evaluation of applicants' training and experience as submitted on application materials.
  2. Written examination.
  3. Practical demonstration of skill.
  4. Evaluation of applicants' training, and experience by an independent committee.
  5. Oral evaluation of technical training, education and experience by a technical qualifications panel.
  6. Oral evaluation of training, experience and general fitness by a qualified appraisal interview panel.
  7. Other tests of fitness as determined by the Personnel Commission.

5.2.8 WRITTEN EXAMINATIONS

- A. The written examination for a class may cover any subject matter appropriate to the duties of positions within the class including testing of skills, knowledge and abilities.
- B. All examination parts shall be prepared under the supervision of the Director of Classified Personnel who shall determine passing scores and assign relative percentage weights to each test part.

5.2.9 EVALUATION OF TRAINING AND EXPERIENCE

- A. If a part of the examination is a scored evaluation of the applicants' training and experience, the evaluation shall be individually and independently conducted by at least two members of a committee other than the oral interview panel.

5.2.10 ORAL INTERVIEW PANEL EXAMINATIONS (EDUCATION CODE SECTION 88092)

- A. If an examination requires the use of one or more oral interview panels, the Director of Classified Personnel shall assure that the following procedures are carried out, in order to avoid impropriety or the appearance of impropriety:
  - 1. All panels shall consist of at least two persons free of partiality and conflict of interest regarding any candidate in the oral interview. All oral panel members shall certify, in writing, that they have no partiality or conflict of interest.
  - 2. In the event an oral panel member indicates a partiality or conflict of interest, he/she shall be disqualified from rating that candidate and a substitute rater may be provided.
  - 3. Unless specifically directed to evaluate candidates' technical knowledge and skills, the oral interview panel shall confine itself to evaluating general fitness for employment in the class.
  - 4. When the oral panel is directed to evaluate technical knowledge and skills, at least two members of the panel shall, as determined by the Director of Classified Personnel, be technically qualified in the specified occupational areas under examination.
  - 5. Members of the Governing Board or Personnel Commission shall not serve on an oral examination board.

Section 5.2.10

6. A supervisor at the first or second level over a vacant position or a participant in the final selection shall not serve on an oral interview panel. For purposes of the rule, a supervisor shall be defined as a person having substantial responsibility for selection and evaluation of employees in that position.
- B. Interviews shall be recorded and filed in the Personnel Commission Office and the recording shall be available for review by candidates as provided in Rule 5.2.19.
  - C. Scores achieved by the candidate on other parts of the examination shall not be made available to the oral interview panel.

Rev. approved by Personnel Commission 8/19/15

5.2.11

REFERENCES OF EMPLOYMENT FOR CANDIDATES

- A. Under no circumstances shall confidential references on employees be used in the selection process.

Rev. approved by Personnel Commission 7/15/15

5.2.12 ADMITTANCE TO EXAMINATION

- A. Each applicant whose application has been approved shall be notified a reasonable time in advance of the time, date, and place of the test. Such notice shall be the applicant's authorization to take the examination. No candidate may be admitted to any examination without this authorization and acceptable picture (or other) identification.

5.2.13 SPECIAL ADMINISTRATION OF EXAMINATIONS

- A. Special arrangements for test administration of a written test may be made under the following circumstances:
  - 1. Where the test candidate is unable to attend the test administration on the prescribed date and time due to illness, accident or hospitalization, a verified statement from a physician, or other appropriate documentation (such as a police report for an auto accident) shall be submitted to the Personnel Commission Office within five (5) days after the date of the test.
  - 2. Where the test candidate is unable to attend the test administration on the prescribed date and time due to jury duty or other court attendance, a statement from the court verifying attendance shall be submitted to the Personnel Commission Office within five (5) days after the date of the test.
  - 3. Where the test candidate is unable to attend the test administration on the prescribed date and time because of his/her religious beliefs; a request from the candidate shall be submitted to the Personnel Commission Office within five (5) days after the date of the test.



Section 5.2.13.A.4

4. Where the test candidate was precluded from attending the test administration on the prescribed date and time because of a misdelivery of invitation, acceptable verification of misdelivery must be submitted to the Personnel Commission Office within five (5) days after the date of the test; test candidates are required to notify the Personnel Commission Office of any change in address and any failure to do so which results in late delivery shall not be accepted as sufficient reason to grant a special test administration.
  5. Where a promotional test candidate is unable to attend the test administration on the prescribed date and time due to District approved attendance at an all-day, off campus workshop or seminar, the test candidate shall submit verification from his/her supervisor to the Personnel Commission within five (5) days after the date of the test.
  6. Where the test candidate, through no fault of his/her own, is precluded from attending the test administration on the prescribed date and time because of a verifiable error by a member of the Personnel Commission staff, reasonable evidence must be presented to the Personnel Commission within five (5) days after test administration to verify that an official application was filed in the Personnel Commission Office by the test candidate.
- B. The test candidate shall make a written request for special test administration as early as possible, but no later than five (5) working days after the regular test administration date, stating their reason(s) for which the special administration is requested.

- C. Because of practical difficulties in obtaining oral and performance test rating panels and ensuring consistent administration and evaluation, special test administration cannot be guaranteed.

Rev. approved by Personnel Commission 7/15/15

#### 5.2.14 TEST ADMINISTRATION PROCEDURES

- A. Competitors in any written test must take the test on the prescribed date except as provided in Rule 5.2.13.
- B. Copies of the questions in a test shall not be made by competitors or other unauthorized persons.
- C. Written tests shall be administered in such a way that none of the test papers will disclose the name of any competitor until all papers of all competitors in the examination have been scored and rated.
- D. No competitor in any examination shall place any identifying mark on his/her test papers, except the identifying mark prescribed at the time of examinations. Placing an identifying mark or attempting to disclose to others the identity of his/her paper prior to the completion of the examination may be grounds for disqualification.

5.2.15

REVIEW, PROTEST, AND APPEAL OF EXAMINATIONS

- A. Candidates may review their own examination scores and rating sheets. Notification of examination results shall inform the candidate of the five (5) working day period during which appointments for reviews may be scheduled. At no time will a candidate be allowed to review actual test content, after the conclusion of each test part.
- B. Candidates may protest any test part to a Personnel Commission staff member on the day of the test. Protests must be filed on the day the test is administered, before the candidate leaves the testing site. Upon request, the candidate will be provided with a standard protest form on which he/she may file a protest, outlining the basis for the protest. No candidate may copy or remove from the review room any questions or answers.
- C. The protest forms shall be filed with the Director of Classified Personnel or designated staff member immediately following the test. Failure by a candidate to file a protest on the day of the test shall constitute waiver of the right to appeal that part of the test.
- D. An assigned Personnel Commission staff member shall review and act upon all protests. He/she may allow more than one answer to a question or may disqualify a question, if he/she finds the protest valid. If a protest results in any change, the scores of all candidates will be reviewed and re-rated accordingly. Each candidate who files a protest shall receive a written response.
- E. The purpose of the protest procedure is to assure accurate testing and grading systems, and a protest shall not be accepted merely because a candidate disagrees with an answer or score.

Section 5.2.15 F.

- F. Protests shall be based solely on one of more of the following, and must include supporting rationale:
  - 1. Discrimination or bias
  - 2. Procedural error
  - 3. Content error
  
- G. If a candidate is not satisfied with the initial response to the protest, the candidate may file a written appeal with the Director of Classified Personnel within ten (10) calendar days from the date on which the Director's response was mailed. The Director of Classified Personnel will make a decision regarding the appeal, and notify the candidate of that decision in writing.
  
- H. If the Director of Classified Personnel rules against the appeal, the candidate may appeal that decision to the Personnel Commissioners, in writing, within five (5) working days of receipt of the Director's decision. However, the filing of such an appeal will not stop or otherwise delay the examination and selection process unless so ordered by the Personnel Commission. The decision of the Personnel Commissioners shall be final.

5.2.16

NOTICE OF EXAMINATION RESULTS

- A. Notification of test results shall be provided to candidates as soon as practicable following administration of the test.
- B. The notice shall include the following:
  - 1. Each candidate's individual examination results.
  - 2. The time period for review per Rule 5.2.15.
  - 3. Final ranking, once all test parts are completed.
  - 4. The opportunity to review the eligibility list, per Rule 5.2.20.

5.2.17

LONGEVITY PREFERENCE CREDIT

- A. Longevity preference credit shall be added only to the final passing scores of candidates who have permanency with the District, including candidates who are on a valid reemployment list.
- B. The following is the schedule of longevity preference credits allowed on a candidate's final score:

<u>YEARS OF SERVICE</u>	<u>POINTS</u>
1 to 2	1.0
2 to 3	1.5
3 to 4	2.0
4 to 5	2.5
5 to 6	3.0
6 to 7	3.5
7 to 8	4.0
8 to 9	4.5
9 to 10	5.0

- C. For purposes of this rule, regular employees serving in permanent positions which are less than 12 months shall be credited on a full-year basis.
- D. Longevity preference credit will be awarded on eligibility lists as follows:
  - 1. promotional list;
  - 2. merged list

Longevity preference credit will not be awarded on open competitive eligibility lists.

Section 5.2.18

5.2.18 VETERAN'S PREFERENCE (EDUCATION CODE SECTIONS 88113, 88114, 88115)

- A. A veteran, as defined in this rule, shall mean an individual who has been discharged or released under conditions other than dishonorable and has served at least 30 days of active duty in the Army, Navy, Marine Corps, Coast Guard, or Air Force between the dates listed below:

World War II -- December 7, 1941, to December 31, 1946

Korea -- June 27, 1950, to January 31, 1955

Vietnam -- August 4, 1964, to May 7, 1975

Gulf conflict -- January 14, 1991 to February 27, 1991

(This is the actual war period. Additional coverage may be granted subject to future verification from Veteran's Administration)

- B. Veterans, except disabled veterans, shall be allowed an additional credit of five (5) points to their composite score in entry-level examinations, only if they receive an overall passing score.
- C. Disabled veterans shall be allowed an additional credit of ten (10) points to their composite score in entry-level examinations.
1. Disabled veteran is defined to mean an individual who is currently declared by the United States Veteran's Administration to be 10 percent or more disabled as a result of service in the armed forces.
- D. Veteran preference points shall not be added to composite scores until the applicant receives an overall passing score.

5.2.19

RETENTION OF EXAMINATION RECORDS  
(EDUCATION CODE SECTION 88093)

- A. Examination records, including test answer sheets, and the rating sheets of each member of an oral interview panel shall be retained for a period of two (2) years; tape recordings of interviews shall be retained for ninety (90) calendar days.
- B. Examination records shall be confidential. Records, such as standardized test questions, identifiable ratings of oral panel members, and confidential references of previous employers, shall not be available for review.
- C. Remaining examination records, such as scores, test answer sheets, and the oral interview recording of the candidate or eligible shall be available for review only by the candidate or eligible and his/her representative. The candidate or eligible or his/her representative may not review the examination records of another person.



5.2.20 REVIEW OF ELIGIBILITY LIST

- A. Upon completion of the examination process, the final ranking of eligibles on the list shall be open to all competitors for review.
- B. Eligibility lists shall be considered confidential information. In order to protect the privacy of the competitors, eligibles shall be listed by identification numbers only. The information available for review shall be limited to the rank, identification number and expiration date of the eligibles.
- C. This list of eligibles shall be open for review for the duration of this list.

PERSONNEL COMMISSION

SANTA MONICA COLLEGE

MERIT RULES

CHAPTER VI

Presented to the Personnel Commission for First Reading on October 9, 1991.

Rule Revisions 6.1, 6.2, 6.3 Approved by the Personnel Commission on March 16, 2016.

## **CHAPTER VI -- EMPLOYMENT LISTS AND CERTIFICATION**

### **Rule 6.1 EMPLOYMENT LISTS**

- Section      6.1.1 Reemployment List  
              6.1.2 Position Transfer List  
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### **Rule 6.2 ELIGIBILITY LISTS**

- Section      6.2.1 Establishment of Eligibility Lists  
              6.2.2 Types of Eligibility Lists  
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              6.3.4 Certification of Available Eligibles  
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              6.3.9 Restoration  
              6.3.10 Final Selection Interview  
              6.3.11 Timelines for the Final Selection Interview  
              6.3.12 Procedure for Request and Certification of Additional Eligibles  
              6.3.13 Use of Alternate Eligibility Lists  
              6.3.14 Selective Certification for Positions with Language Requirements  
              6.3.15 Certification of Names for Shift Differential Compensation

### **Rule 6.4 DUTIES AND RIGHTS OF ELIGIBLES**

- Section      6.4.1 Duties of Eligibles  
              6.4.2 Notification of Address  
              6.4.3 Confidentiality of Certification  
              6.4.4 Reduction in Eligibility  
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Rule Revisions 6.1, 6.2, and 6.3 Approved by the Personnel Commission on March 16, 2016

## CHAPTER VI EMPLOYMENT LISTS AND CERTIFICATION

Positions in the classified service shall be filled from employment and eligibility lists established according to the procedures prescribed in this chapter. It shall be the policy of the Personnel Commission to promote upward mobility, career laddering/latticing for classified staff, and equal employment opportunity in the selection process.

### Rule 6.1 EMPLOYMENT LISTS (88091)

An employment list shall be defined as a list of names of current and former permanent employees who are eligible for employment into a vacant position without competitive examination.

#### 6.1.1 REEMPLOYMENT LISTS (EDUCATION CODE SECTION 88116, 88117, 88195)

- A. A reemployment list shall be established for each class as necessary and shall take precedence over all other employment and eligibility lists. 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, lack of funds, or exhaustion of medical leave.
- B. An employee who is granted a leave of absence for military duty or who is ordered, pursuant to the laws of the United States, to serve in any civilian war effort or war industry, shall have preference in reemployment. His/her name shall be placed ahead of all other names on the reemployment list for a given class. (Merit Rule 11.9)
- C. The life of the reemployment list for persons laid off shall be 39 months. Employees returning from military leave shall be eligible for reemployment for a period not exceeding six (6) months after discharge.
- D. Employees on one or more re-employment lists shall be certified to vacant positions in their class in order by seniority (Merit Rule 13.1; Education Code 88195)
- E. Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff, in order to remain in their present positions rather than be reclassified or reassigned, shall be entitled to an additional 24 month period of reemployment provided that the same tests of fitness under which they qualified for appointment to the class still apply. Determination as to whether the same tests of fitness still apply shall be made on a class-by-class basis.

#### 6.1.2 POSITION TRANSFER LIST

- A. All qualified employees who request position transfer to a position with the same number of hours and/or months shall be placed on a position transfer list and shall be certified for interview in accordance with 6.3.2.A.1. Each transfer list shall expire once the current vacancy or vacancies listed in the posting have been filled.

#### 6.1.3 CAREER LATTICING LIST (INCLUDES LATERAL TRANSFERS, VOLUNTARY DEMOTIONS, INCREASE IN HOURS, OR DECREASE IN HOURS)

- A. All qualified persons requesting increase or decrease in hours, voluntary demotions or lateral transfer shall be placed on a career latticing list and shall be certified for interview in accordance with 6.3.2.A.3. Each Career Latticing list shall expire once the current vacancy or vacancies listed in the posting have been filled.

#### 6.1.4 REINSTATEMENT LIST

- A. All qualified permanent former employees who left in good standing and request reinstatement to their former class, or a lower related class in the same occupational group, shall be placed on a reinstatement list and shall be certified for interview in accordance with 6.3.2.A.4. Employees shall be eligible for reinstatement for a period of 39 months from their last date of employment.

#### Rule 6.2 ELIGIBILITY LISTS (EDUCATION CODE SECTION 88091, 88119)

An eligibility list shall be defined as a list of the names of persons who have qualified in all parts of the examination.

#### 6.2.1 ESTABLISHMENT OF ELIGIBILITY LISTS

- A. After an examination is completed, the names of successful candidates shall be arranged on a list in the rank order of examination score, including additional veteran's or longevity preference points, when applicable. The completed list, after approval by the Personnel Commission, shall constitute an "eligibility list" for that class.
- B. Unless otherwise authorized in these rules, all appointments to positions in the classified service shall be made from eligibles whose names appear on eligibility lists. The Director of Classified Personnel shall be responsible for establishing eligibility lists as a result of examinations authorized by these rules. An eligibility list shall contain:

1. The type of eligibility list - open, promotional, open and promotional with the promotional list taking precedence, or merged promotional and open competitive (dual certification).
  2. The names of all eligibles in final rank order of total examination scores.
  3. The adjusted scores of each part of the examination and the weighted total scores.
  4. The dates of each part of the examination.
  5. The expiration date of each person's eligibility.
  6. The signature of the Director of Classified Personnel attesting to the accuracy of the information on the eligibility list.
  7. The date the list was ratified or approved by the Personnel Commission.
- C. All eligibility lists shall be approved at the first reasonable opportunity at a Personnel Commission meeting.
1. To facilitate the orderly progress of business, the Director of Classified Personnel may certify eligibles from the eligibility list before approval of the list by the Personnel Commission. However, no job placement shall be made before the notification procedures provided in Rule 5.2.16 have been carried out.

## 6.2.2 TYPES OF ELIGIBILITY LISTS

- A. The types of eligibility lists are
1. Promotional - a list of eligibles resulting from an examination limited to qualified permanent employees only.
  2. Promotional and open competitive – separate promotional and open competitive lists of eligibles resulting from a single examination with the promotional list taking precedence.
  3. Merged promotional and open competitive - one list of eligibles resulting from a single examination including promotional and open competitive eligibles in a single merged eligibility list (See 5.2.4).
  4. Open competitive - a list of eligibles resulting from an examination open to all qualified candidates.

### 6.2.3 DURATION OF ELIGIBILITY LIST (EDUCATION CODE SECTION 88119)

- A. Eligibility lists shall be established for the duration of either six (6) months or one (1) year.
- B. The expected duration of each eligibility list as approved by the Personnel Commission shall be announced on the job announcement bulletin for each class.
- C. An eligibility list may be extended by the Personnel Commission for one or more periods, not to exceed a total of two years from the time the list was first established. The Director of Classified Personnel shall base his/her recommendation for extension of an eligibility list on the following factors:
  - 1. a sufficient number of available eligibles remain to fill expected future vacancies;
  - 2. the composition of the list reflects appropriate representation of ethnic minorities, underrepresented groups, or non-traditional candidates;
  - 3. the field of competition in the occupational area has not changed dramatically.
- D. Names of successful competitors may be added to eligibility lists for classes approved by the Personnel Commission for continuous testing effective upon approval of the Director of Classified Personnel. These eligibles shall remain on the eligibility list only for the appropriate period as indicated in the job announcement bulletin.

### 6.2.4 CONSOLIDATION OF ELIGIBILITY LISTS

- A. 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.
- B. When lists are consolidated under this rule, the earlier lists shall be terminated one year after its establishment and those eligibles' names shall be removed from the consolidated list.
- C. All candidates on an existing eligibility list shall be notified at the time a new examination is scheduled for the class.

## 6.2.5 TERMINATION OF ELIGIBILITY LISTS

- A. An eligibility list shall be terminated as follows:
  - 1. Automatically, when the term of the eligibility list as promulgated, has expired.
  - 2. Automatically, when no eligibles remain on the list.
- B. An eligibility list may be terminated by the Director of Classified Personnel prior to its expiration under the following circumstances:
  - 1. When no eligible is available for appointment to a specific permanent vacant position.
  - 2. When fewer than three ranks of eligibles remain on the list after certification, and the appointing authority requests certification of additional eligibles.
  - 3. Upon abolishment of the class for which the list was established.
- C. When an eligibility list is terminated prior to the expiration of its term, all remaining eligibles shall be notified and given the opportunity to register for or retake the examination.

## Rule 6.3 CERTIFICATION TO FILL VACANCIES (EDUCATION CODE SECTION 88091)

Certification shall be defined as the official submission of the names of employees or eligibles from an appropriate list to the appointing authority by the Director of Classified Personnel.

### 6.3.1 APPOINTING AUTHORITY

- A. The appointing authority shall be the Governing Board of the District, and its designated managers and supervisors.

### 6.3.2 ORDER OF PRECEDENCE IN THE USE OF LISTS

- A. The order of precedence for the use of employment and eligibility lists for filling vacancies in the classified service shall be as follows:
  - 1. Reemployment List (Education Code Section 88117, 88195)
  - 2. Position Transfer List



3. Career Latticing List
4. Reinstatement List and Eligibility List

### 6.3.3 REQUEST FOR CERTIFICATION

- A. When a new position is created, or a regular position becomes vacant, the request to fill the position shall be made through the appropriate process as prescribed by the District and submitted to the Director of Classified Personnel for action.

### 6.3.4 CERTIFICATION OF AVAILABLE ELIGIBLES

- A. Personnel Commission staff shall certify the names of qualified persons on the employment lists and the three top ranks on the eligibility list who are ready and willing to accept the vacant position. Certification shall be in the order prescribed in Rule 6.3.2.
- B. The certification prepared by Personnel Commission staff shall contain the following:
  1. For employees certified from an employment list, the certification shall include the name and status of the employee as well as a recent application;
  2. For employees certified from an eligibility list, the certification shall list the name, the application, and resume, if any, filed by the employee.

### 6.3.5 RULE OF THREE RANKS

- A. 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.
- B. Certification from the eligibility list shall consist of all eligibles in the top three ranks who are ready and willing to accept the vacant position.
- C. When the field of competition indicates that the promotional list shall take precedence over the open list, and fewer than three ranks of eligibles are available on the promotional list, sufficient names shall be certified from the open competitive list to allow a choice among three ranks of eligibles.
- D. When fewer than three ranks of eligibles are available for certification, the available eligibles shall be certified; however, the appointing authority may

choose not to appoint any of them and may request a new examination.

- E. When there is more than one vacancy for the same position in any one or more departments, one additional rank per vacancy shall be certified for final interview. All candidates on the eligibility list may be interviewed. However, the rule of three ranks still applies and all hiring must be made from the top three ranks before a lower rank can be hired.

#### 6.3.6 AVAILABILITY AND WAIVER OF ELIGIBILITY

- A. An eligible may designate his/her availability for specific locations or shifts, part time or full time positions, and for limited-term (temporary) or permanent positions by filing an availability questionnaire in the Personnel Commission Office.
- B. An eligible may revise or withdraw his/her availability by submitting a request in writing to the Director of Classified Personnel. The change shall become effective upon receipt and acceptance by the Director of Classified Personnel.
- C. An eligible may waive certification twice without penalty, except that waivers relating to part-time or limited-term appointments shall not be counted for the purpose of this rule. At the time of a third waiver, he/she shall be removed from the eligibility list. The eligible shall be notified of the action taken.

#### 6.3.7 WITHHOLDING NAMES FROM CERTIFICATION

- A. The Director of Classified Personnel may withhold the name of an eligible from certification for a permanent or temporary vacancy when the eligible:
  - 1. Expresses unwillingness or inability to accept appointment;
  - 2. Fails to respond within three (3) business days following written or verbal notification of a specific vacancy. Failure of the candidate to respond within three (3) business days will constitute a waiver of certification.
  - 3. Cannot be reached in time for appointment when immediate temporary employment is required;
  - 4. Fails to present the license, registration, certificate, or any other credential required;
  - 5. Is disqualified under Rule 4.2.

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### 6.3.8 REMOVAL OF NAMES FROM ELIGIBILITY LISTS

- A. The Personnel Director may remove the name of an eligible from an eligibility list for any of the following reasons:
1. Failure to respond within five (5) business days following the mailing of an inquiry regarding availability for employment in the classification.
  2. Failure to respond within three (3) business days following the mailing of written notice of a vacancy.
  3. Failure to notify the Personnel Commission Office of a change of address as provided in Rule 6.4.2.
  4. Failure to report for a scheduled interview after certification.
  5. Failure to report for duty at the required time after having accepted appointment.
  6. Termination of employment resulting in removal of an eligible from a promotional eligibility list.
  7. Three (3) waivers of certification during the life of the eligibility list, except that waivers relating to part time or limited-term appointments shall not be counted for the purpose of this rule.
  8. Refusing an employment offer after having been properly certified as eligible and available for the appointment.
  9. Any of the causes listed in Rule 4.2.
  10. A written request by the eligible for removal.
- B. The Personnel Director shall notify the eligible of the action to be taken, the reason(s) therefore, and the opportunity to appeal to the Personnel Director within five (5) business days before final action is taken. Any action taken by the Personnel Director following an appeal is subject to ratification by the Personnel Commission.

### 6.3.9 RESTORATION

- A. An eligible's name may be restored to an eligibility or employment list by the Director of Classified Personnel under the following circumstances:
1. When the eligible presents a good and valid reason for waiver, inability to accept employment, failure to respond to an inquiry regarding availability

for interview or to report for work;

2. When the eligible presents verification that the reason(s) for ineligibility under Rule 4.2 has been corrected.
- B. Revisions and withdrawals of voluntary waivers shall become effective upon receipt by the Director of Classified Personnel.

#### 6.3.10 FINAL SELECTION INTERVIEW

- A. The immediate supervisor, accompanied by his/her supervisor or such other persons as may be designated by the hiring manager or the Director of Classified Personnel, shall interview all persons certified for the vacant position. This interview shall be designated as the final selection interview.
- B. The final selection interview shall be conducted in a fair and impartial manner and all eligibles shall be given an equal opportunity to present their qualifications for the vacant position. All questions asked shall be job-related, and all eligibles shall be asked the same basic questions and shall be given sufficient time to respond.
- C. Following the completion of the interviews, a final selection report shall be completed by all interviewers in the final selection interview. The report shall provide a specific appraisal of the relative qualifications of each of the candidates.

#### 6.3.11 TIMELINES FOR THE FINAL SELECTION INTERVIEW

- A. Certification of eligibles to be interviewed for a vacancy in a class with an existing eligibility list shall normally be made within two weeks after job posting and other contractual requirements have been met.
- B. Certification of eligibles to be interviewed for a vacancy in a class with a newly established eligibility list may be made after completion of notification requirements as specified in Rules 5.2.16 and 5.2.20.
- C. The supervisor shall notify the Director of Classified Personnel of his/her selection decision within five days after the completion of the interviews.

#### 6.3.12 PROCEDURE FOR REQUEST AND CERTIFICATION OF ADDITIONAL ELIGIBLES

- A. If an eligible who has been certified, refuses appointment or fails to report for an interview, the appointing authority may fill the vacancy from the remaining eligibles or may request additional certification.

- B. When a request for additional eligibles is made, the Director of Classified Personnel may:
1. Certify additional eligibles, as required.
  2. Remove the names of eligibles who have refused appointment or have failed to report for a scheduled interview without notification.
  3. Investigate the matter at his/her discretion to determine that any refusal is, in fact, voluntary.
  4. Request authorization from the Personnel Commission to refuse further certification should the investigation determine that refusal of appointment by an eligible is, in fact, not voluntary.

#### 6.3.13 USE OF ALTERNATE ELIGIBILITY LISTS

- A. If there is no eligibility list for the class in which a vacancy occurs, certification may be made from a list for another class at the same or a higher salary level provided:
1. 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.
  2. The Personnel Commission finds that the use of the list is in the best interest of the District and that the necessary skills and knowledge were adequately tested in the examination.

#### 6.3.14 SELECTIVE CERTIFICATION FOR POSITIONS WITH LANGUAGE REQUIREMENTS (EDUCATION CODE SECTION 88096)

- A. If a position requires the use of a language in addition to English, the appointing authority shall so indicate to the Director of Classified Personnel when requesting certification of eligibles to fill the vacancy.
- B. The Director of Classified Personnel shall determine which eligibles possess the required language skills and shall certify the names of the top three (3) ranks of eligibles who meet the special requirements.
- C. The recruitment bulletin announcing the examination shall indicate the special requirements which may be necessary for filling one or more of the positions in the class.

#### 6.3.15 CERTIFICATION OF NAMES FOR SHIFT DIFFERENTIAL COMPENSATION (EDUCATION CODE SECTIONS 88180, 88181, 88182, 88183, 88184, 88185, 88186)

- A. Assignment to a position which qualifies for shift differential compensation as specified in Rule 12.2.14 shall be made on the basis of seniority among those employees within the appropriate class. The following conditions shall apply:
  - 1. The assignment must exceed twenty continuous working days.
  - 2. The employee must submit an application for transfer to the Director of Classified Personnel at the time the vacancy is posted.
  - 3. Seniority shall be computed as provided in Rule 13.1.2.
- B. No employee assigned to work a shift which is entitled to differential compensation shall be demoted in class as a result of such an assignment.
- C. An employee receiving a shift differential shall not lose this compensation if he/she is temporarily, for twenty (20) working days or less, assigned to a shift not entitled to such compensation.
- D. When a vacancy exists in a permanent or temporary position for which differential compensation is designated, and no employee in the class wishes to volunteer for the shift, the assignment shall be made by the department supervisor on the basis of the needs of the department. Except in emergency circumstances, notification shall be made to the affected employee(s) in writing at least five (5) working days prior to becoming effective.

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## Rule 6.4 DUTIES AND RIGHTS OF ELIGIBLES

### 6.4.1 DUTIES OF ELIGIBLES

- A. When an eligible is selected for a permanent position, the following notification procedures shall be used:
  - 1. The eligible shall be notified of selection by the Classified Personnel Office.
  - 2. Notification may be made in person, by telephone, telegram, or certified mail.
  - 3. He/she shall report for work within two calendar weeks (one month for management positions).
  - 4. At its discretion, the appointing authority may allow the selected eligible a period longer than two weeks to report for work.

5. Failure to report for work on the agreed upon date shall constitute refusal of appointment and be grounds for removal under Rule 6.3.8.
- B. When an eligible is selected for a limited-term (temporary) position, he/she must report for work on the date specified by the appointing authority.

#### 6.4.2 NOTIFICATION OF ADDRESS

- A. All persons placed on an eligibility or reemployment list shall provide their current address and telephone to the Personnel Commission Office. The Personnel Director shall use the address and telephone number for all communication with the eligible.
- B. It shall be the responsibility of the eligible to notify the Personnel Commission Office promptly of any changes in address or telephone number. Failure to notify the Personnel Commission Office shall constitute a waiver of certification and may be grounds for removal under Rule 6.3.8.

#### 6.4.3 CONFIDENTIALITY OF CERTIFICATION (EDUCATION CODE SECTION 88083)

- A. The certification of eligibles shall be considered confidential and release of information shall be limited as follows:
  1. To the appointing authority: only information relating to eligibles who have been certified shall be released by the Personnel Director.
  2. To the eligibles: only the names of the eligibles who have accepted certification.
  3. To such other additional persons as specifically ordered by the Personnel Commission.

#### 6.4.4 REDUCTION IN ELIGIBILITY

- A. A reduction in eligibility from a higher class to a lower class may be approved by the Personnel Commission when the two classes are in the same line of promotion and have similar test(s) of fitness. The name of an eligible reduced in eligibility shall be placed at the bottom of the eligibility list for the lower class.

#### 6.4.5 ELIGIBILITY AFTER APPOINTMENT

- A. An eligibility list shall be used for full time, part time, regular, and limited-term (temporary) assignments in the class. An eligible who accepts part time employment shall continue to be eligible for full time employment, and an eligible who accepts limited-term employment shall continue to be eligible for regular employment.

PERSONNEL COMMISSION

SANTA MONICA COLLEGE

MERIT RULES

CHAPTER VII

Presented to the Personnel Commission for First Reading on October 9, 1991.

Rule Revision 7.4 Approved by the Personnel Commission on November 19, 2014.



## **CHAPTER VII -- APPOINTMENT TO CLASSIFIED POSITIONS**

### **Rule 7.1** APPOINTMENT TO CLASSIFIED APPOINTMENTS

<u>Section</u>	<u>7.1.1</u>	<u>Procedures for Selection</u>
	<u>7.1.2</u>	<u>Appointment</u>
	<u>7.1.3</u>	<u>Discrimination Prohibited</u>
	<u>7.1.4</u>	<u>Nepotism Prohibited</u>

### **Rule 7.2** PROVISIONAL APPOINTMENT

<u>Section</u>	<u>7.2.1</u>	<u>General Provisions</u>
	<u>7.2.2</u>	<u>Qualifications of Provisional Appointees</u>
	<u>7.2.3</u>	<u>Status of Provisional Employees</u>
	<u>7.2.4</u>	<u>Terminating Provisional Appointment</u>

### **Rule 7.3** SPECIAL APPOINTMENTS

<u>Section</u>	<u>7.3.1</u>	<u>Procedure for Emergency Appointment</u>
	<u>7.3.2</u>	<u>Conditional Appointment</u> Additional Assignments
	<u>7.3.3</u>	<u>Casual Appointment</u>
	<u>7.3.4</u>	<u>Summer Session Assignments</u>

### **Rule 7.4** LIMITED-TERM (TEMPORARY) APPOINTMENTS

<u>Section</u>	<u>7.4.1</u>	<u>Limited-Term Positions Defined</u>
	<u>7.4.2</u>	<u>Procedure for Establishment of Limited-Term Positions</u>
	<u>7.4.3</u>	<u>Eligibility for Appointment</u>
	<u>7.4.4</u>	<u>Compensation</u>
	<u>7.4.5</u>	<u>Rights and Benefits</u>
	<u>7.4.6</u>	<u>Termination of Appointment</u>

Rule 7.1 PROCEDURES FOR APPOINTMENT

7.1.1 PROCEDURES FOR SELECTION

- A. The appointing authority, or its management representatives, shall interview all of the employees and eligibles who are certified from appropriate employment or eligibility lists. A selection shall be required when:
1. The certification is from a reemployment list or is based on seniority entitlement.
  2. Sufficient eligibles are certified for a given vacancy to total three (3) ranks of eligibles.
- B. In all other instances of certification for position transfer, voluntary demotion, reinstatement and lateral transfer, the decision to make a selection shall be at discretion of the appointing authority.

7.1.2 APPOINTMENT

- A. The Personnel Commission Office shall notify the prospective employee that he or she has been selected, subject to the terms and conditions of a written offer issued by the Human Resources Office. The offer shall include the time and date to report for duty, probation period and the salary at the time of hire. Appointment to the position shall be subject to approval by the Board of Trustees.
- B. The prospective employee shall be allowed no less than two (2) calendar weeks to report for duty after a written offer of employment to a permanent position has been made. Should this individual be unable or unwilling to report for duty by the required start date, the appointing authority may request additional certification as provided in Rule 6.3.12. (Procedures for Request and Certification of Additional Eligibles)
- C. Procedures for employment and orientation are listed under 9.2.2. (Orientation of New Employees)

### 7.1.3

DISCRIMINATION PROHIBITED (EDUCATION CODE SECTIONS 87100, 88112, 7056, Government Code Sections 11135, 12940, California Code of Regulations, Title V, 51010, 53000; California Administrative Code Title II, 7285; Title IV of the Civil Rights Act of 1964, Sections 102 and 103 of the Civil Rights Act of 1991; Sections 501 and 505 of the Rehabilitation Act; Equal Pay Act of 1963; Age Discrimination in Employment Act of 1967; Title I of the American's with Disabilities Act of 1990; Genetic Information Nondiscrimination Act of 2008; Immigration & Nationality Act)

- A. No person shall be subject to discrimination because of ethnic group identification, race, color, national origin, religion, age, disability, ancestry, sexual orientation, gender, gender identify, gender expression, language, accent, citizenship status, parental status, marital status, economic status, veteran status, medical condition, or other categories included in applicable laws or Board Policies. No person shall be subject to discrimination on the basis of these perceived characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics. No questions relating to these matters shall be asked of candidates in interviews.

Rule 7.1.4 NEPOTISM PROHIBITED (EDUCATION CODE SECTION 88080)  
(GOVERNMENT CODE SECTION 12940, a-3)

- A. No person shall be employed in a position which is in a direct line of supervision under a supervisor or administrator who is related to or a resident in the same household as the employee to be hired.
- B. No employee shall be assigned, transferred or remain in a position under a supervisor or administrator who is a close relative or a resident in the same household.
- C. For purposes of this rule, close relative shall be defined as follows:
  - 1. spouse, domestic partner, or co-habitant;
  - 2. child, including adopted, in-laws and step- or half-parent;
  - 3. grandchild, including adopted, in-laws and step-or half-grandparent;
  - 4. sibling, including in-laws and step- or half-;
  - 5. any other member of the employee's household whether or not related by blood or marriage; or
  - 6. children and family members of siblings and spouses
- D. A person serving in a supervisory position may not participate in decisions regarding hiring, reappointment, placement, scheduling, evaluation, rate of pay, salary increases, promotion, monetary awards, or other personal interest for a relative or household member employed by the District, even when the supervisor is not in the direct line of authority.

Rule 7.2 PROVISIONAL APPOINTMENT (EDUCATION CODE SECTIONS 88106-88108)

7.2.1 GENERAL PROVISIONS

- A. The appointing authority may make a provisional appointment only when the Personnel Director certifies that:
1. No eligibility list exists for the class, or
  2. An eligibility list exists, but there is an insufficient number of available eligibles (i.e. less than three ranks of eligibles), and the appointing authority chooses not to appoint an available eligible.
- B. An employee may receive one or more provisional appointments which may accumulate to a total of 90 working days in a fiscal year, after which a 90-calendar-day interval shall elapse during which the employee shall be ineligible to serve in any full-time provisional capacity.
- C. Notwithstanding the provisions of paragraphs A and B above, the Personnel Commission may extend the 90-working-day provisional appointment for a period not to exceed 36 additional working days provided all of the following criteria are met:
1. An examination for the class was given during the initial 90 working days of the employee's provisional assignment.
  2. Satisfactory evidence is presented indicating:
    - a. Adequate recruitment effort has been, and is being made;
    - b. Extension of this provisional assignment is necessary to carry on vital functions of the District;
    - c. The position cannot satisfactorily be filled by use of any of the following:
      - 1.) the eligibility list for the class;
      - 2.) other employment lists such as reinstatement, or transfer;
      - 3.) any other appropriate substitute eligibility lists.
  3. No person shall be employed full-time in provisional capacities under a given Governing Board for a total of more than 126 working days in any one fiscal year.

D. In the absence of an appropriate eligibility list, successive 90 working day appointments may be made to a position for a period exceeding the 126 working day limitation when:

1. Continuous examination procedures have been authorized by the Personnel Commission; or
2. The position is less than a half-time (20 hours/week) position.

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

Rule 7.2.2 QUALIFICATIONS OF PROVISIONAL APPOINTEES

- A. Insofar as possible, provisional appointees shall be required to meet the qualifications for the class of the appointment as stated in the class descriptions. The Personnel Director shall determine the appropriateness of qualifications prior to appointment.

7.2.3 STATUS OF PROVISIONAL EMPLOYEES

- A. 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.
- B. When an employee with permanent status in the District is hired into a position in which the individual has been serving provisionally, the employee's salary increment date shall be established beginning with the date of provisional appointment per Rule 12.2.5B.

7.2.4 TERMINATING PROVISIONAL APPOINTMENT

- A. The services of a provisional appointee shall be terminated no later than the statutory time limitation for a provisional assignment listed in Rule 7.2.1.
- B. A provisional appointment may be terminated at any time, at the discretion of the appointing authority.

Rule 7.3 SPECIAL APPOINTMENTS (EDUCATION CODE SECTION 88109)

7.3.1 PROCEDURE FOR EMERGENCY APPOINTMENT

- A. The appointing power may, to prevent the stoppage of public business when an actual emergency arises and persons on eligibility lists are not immediately available, make appointments for a period not to exceed 15 working days, in accordance with commission rule.
- B. When such emergency appointments are made, Board of Trustees shall notify the Personnel Director in writing, naming the appointee(s), date of appointment, and nature of duties performed, and giving a statement justifying the emergency nature of such appointment(s). Time served under such emergency appointment(s) shall be considered as part of the period permitted under the Education Code for provisional assignments.

7.3.2 ADDITIONAL ASSIGNMENTS TO EMPLOYEES ON LESS THAN 12 MONTH STATUS

Employees assigned to work less than twelve months during the year may request to be assigned to any work in their current classification which may be available during the period of time they are not scheduled to work. If additional assignments become available during such period, the District shall assign the work to any employee who has requested an additional assignment. In the event two or more employees request an additional assignment, the assignment will be given to the most senior employee. In order to be qualified for an additional assignment, an employee must have received at least an overall satisfactory rating on the last evaluation. In the event that no employee within the classification of work to be assigned is available, the District may assign the work to an employee in a related classification.



Rule 7.4

LIMITED-TERM (TEMPORARY) APPOINTMENTS  
(EDUCATION CODE SECTION 88105)

7.4.1

LIMITED-TERM POSITIONS DEFINED

- A. Positions established to perform duties which are not expected to exceed six months in one fiscal year shall be designated as temporary limited-term positions.
- B. Positions established to replace temporarily absent employees, shall be designated as substitute limited-term positions.

7.4.2

PROCEDURE FOR ESTABLISHMENT OF LIMITED-TERM POSITIONS

- A. When a temporary or substitute limited-term position is established, the appointing authority shall notify the Director of Classified Personnel in writing of the hours, starting date, and probable length of the assignment. Establishment of limited-term positions shall be subject to ratification by the Board of Trustees at their next regular meeting.
- B. Substitute limited-term appointment may be made for the duration of the absence of a regular employee but need not be for the full duration of the absence. 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 in a lower class. The duration of the appointment shall not exceed the authorized dates of absence of the regular employee.
- C. The Director of Classified Personnel shall place Limited Term positions on the Personnel Commission agenda as an advisory item.

7.4.3

ELIGIBILITY FOR APPOINTMENT

- A. Limited-term appointments shall be made from eligibility lists and employment lists in accordance with procedures for regular appointments.
- B. If an eligible is appointed from an eligibility list to a temporary or substitute limited-term position, he/she shall continue to be eligible for limited-term appointments in the same or a lower related 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 who accepts a limited-term appointment within 39 months after resignation. The names of such persons shall be ranked in order of seniority on a special list used for limited-term appointments and shall be certified before the current eligibility list is used.
- C. When no eligible is available to accept a limited-term position, the Director of Classified Personnel is authorized to certify applicants or candidates for provisional appointment, per Rule 7.2.

7.4.4

COMPENSATION

- A. When a regular employee is given a limited-term appointment in a second class in lieu of all or part of his/her regular appointment, the rate of pay shall be determined as follows:
  - 1. For assignments at a higher salary range, see Rule 12.2.8.
  - 2. For assignments at the same salary range, see Rule 12.2.12.
  - 3. For assignments at a lower range, see Rule 12.2.9.
- B. A former regular employee who accepts a limited-term assignment within 39 months after resignation shall be placed at the step of the salary range closest to his/her last regular rate of pay. This salary step shall be applicable to all future limited-term appointments of that employee in that class until he/she loses eligibility.
- C. All other limited-term employees including a former employee who accepts assignment to a new classification shall be paid at the hiring rate for regular appointments in the class.

7.4.5

RIGHTS AND BENEFITS

- A. Regular employees who are serving in limited-term assignments while retaining regular status in another class shall continue to earn and be granted all the rights and benefits of a regular employee.
- B. Except as provided in Paragraphs C and D below, all other limited-term employees shall be granted only those benefits provided by law.
- C. Until June 30, 2015, limited-term employees initially hired for a continuous assignment of three months or more shall be granted illness leave on the basis of one day per month of service, as provided to regular employees in Rule 11.3, effective from the first month of employment. Effective July 1, 2015, sick leave for limited term employees shall be governed by Rule 11.10.5.
- D. Commencing in 7/1/85, employees serving in classes designated as seasonal, shall be granted step advancement as follows:
  - 1. Advancement to Step B after serving 120 days in the class;
  - 2. Advance to subsequent steps after an additional 240 days for each step advancement.

Section 7.4.5.E

- E. The classes designated as seasonal and approved for step advancement are:

Registration and Information Clerk

Bookstore Clerk/Cashier

- F. No seniority or credit toward completion of probation shall accrue from service in a limited-term appointment, except as provided in Paragraph A above.

- G. Seasonal employees who have advanced to Step B or above and who are hired into a higher level seasonal classification listed in Paragraph E above, shall receive at least a one step salary increase as provided in Merit Rule 12.2.8.

Revised 9/18/96

Rev. approved by Personnel Commission 11/19/14

7.4.6

TERMINATION OF APPOINTMENT

- A. A limited-term appointment may be terminated at the end of an assigned shift at the discretion of the appointing authority.
  
- B. A limited-term employee may be terminated without cause and his/her name may be removed from an eligibility list as specified in Rule 6.3.8. When the appointing authority dismisses a limited-term employee, the Director of Classified Personnel shall be notified in writing of the cause for dismissal. The Director of Classified Personnel shall investigate the matter, and may remove the limited-term employee's name from the list if his/her findings support the action. He/she shall notify the employee of the decision. The Director's action shall be subject to appeal to the Personnel Commission.

PERSONNEL COMMISSION

SANTA MONICA COLLEGE

MERIT RULES

CHAPTER VIII

Presented to the Personnel Commission for First Reading on November 20, 1991.

Approved by the Personnel Commission on January 15, 1992.





## CHAPTER VIII

### EMPLOYEE CLEARANCES

(EDUCATION CODE SECTIONS 87408.6, 88006, 88021, 88024)

Rule 8.1

PHYSICAL EXAMINATIONS (EDUCATION CODE SECTIONS 87408.6, 8802.1)

8.1.1

INITIAL EMPLOYMENT

- A. Every eligible appointed to a regular position in the Santa Monica Community College District shall pass a physical examination as a condition of initial appointment. The examination shall include: urinalysis, tuberculin skin test or chest x-ray, audiogram, visual acuity and health history, and a medical examination, and shall be completed prior to initial appointment.
- B. The examination shall be administered by the college physician or a private physician upon the approval of the college physician. Costs for the initial pre-employment physical examinations, administered by the District shall be borne by the District.
- C. Prior to employment, every person hired in a classified or exempt position must undergo a negative skin test or chest x-ray to determine that he/she is free from active tuberculosis. For exceptions to this Rule, see Education Code Section 87408.6.

#### Section 8.1.1.D

- D. The college 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 individual and the Personnel Director of the findings.
1. If the college physician proposes to disqualify the eligible, he/she shall provide the individual and the Personnel Director with a statement describing the specific condition and the limitations that have resulted in the individual's disqualification.
  2. If the physical examination reveals a treatable medical condition, the college physician shall review the proposed course of treatment and may approve the individual's employment and require the individual to report for follow-up examinations.
  3. No person may be disqualified from employment due to a medical condition or disability until the college physician and the Personnel Director have determined that a reasonable accommodation of the medical condition or disability cannot be made.

8.1.2

AFTER EMPLOYMENT

- A. Every employee shall undergo an examination to determine that he/she is free from active tuberculosis at least once every 4 (four) years after employment. The District shall provide the approved tuberculin skin test at no cost to the employee.

The District Health Office shall maintain adequate records on each employee which indicates compliance with these rules.

- B. An employee may be required to undergo a physical examination at any time at the discretion of the Superintendent, the Personnel Administrator, or the college physician.
- C. Every employee returning from illness/injury leave of absence must submit acceptable medical verification of recovery sufficient to return to his/her regularly assigned duties to the college physician prior to readmission to active duty.

8.1.3

SCHOOL BUS DRIVERS

- A. In addition to any other examination that may be required by these rules, school bus drivers must have a valid school bus driver's certificate which requires a separate medical examination to meet the minimum requirements set forth by the Department of Motor Vehicles in Chapter 29-B of the Driver's License Examiner's Manual of Procedure.

8.1.4

MEDICAL REVIEW BOARD

- A. Rejection for medical reasons of an eligible, or of an employee who has applied for return from leave of absence, may be appealed to the Personnel Commission.
- B. The Personnel Commission may employ outside medical experts to give a medical advisory opinion. The applicant, eligible or employee may at his/her own expense submit additional medical information to be considered by the Personnel Commission.
- C. The Personnel Commission, based on evidence submitted and the advice of medical experts to the Personnel Commission, shall determine whether or not the denial of appointment or return from leave shall be sustained.

Rule 8.2

CRIMINAL RECORDS CHECK (EDUCATION CODE SECTION 88024)

8.2.1

FINGERPRINTING

- A. A criminal records check shall be done for each person at the time of his/her acceptance of initial employment. The District shall notify each employee where and when to report for fingerprinting, prior to first day of employment. Any person who fails to report for fingerprinting at the day and time appointed by the District shall forfeit eligibility for employment.

8.2.2

REVIEW OF CRIMINAL RECORDS

- A. All criminal record reports shall be confidential. Any employee charged with receiving and/or reviewing these records who divulges information contained therein to an unauthorized person may be subject to disciplinary action.
- B. The criminal record report from the California Bureau of Criminal Identification and Investigation and/or the Federal Bureau of Investigation shall be reviewed with the person's application form and a determination shall be made regarding the person's eligibility for employment. The criminal record shall be evaluated on the following basis:
  - 1. Nature, seriousness and circumstance(s) of the offense(s).
  - 2. Age of the person at the time of the offense.
  - 3. Number of convictions.
  - 4. Relationship of the offense(s) to the position applied for.
  - 5. Evidence of rehabilitation and maturing, including employment record with respect to job responsibility and duration.
  - 6. Truthfulness in admitting to the offense(s) at the time of initial application.

Upon review of the criminal record, the Personnel Director shall notify the person of his/her eligibility for employment.

## Section 8.2.2.C

- C. If a probationary employee is to be dismissed because of information disclosed on the criminal record report or if the appointing authority desires that an eligible be removed from an eligibility list because of such information, the Personnel Director shall be notified of the recommended action and the reasons therefore.
  
- D. Upon receipt of the recommendation, the Personnel Commission shall notify the employee or eligible of the action taken or contemplated and the reasons therefore. The Personnel Director shall provide the person with an opportunity to respond to the decision in writing within ten (10) working days of notification. He/she shall notify the Personnel Commission of the recommendation and the response of the employee or eligible, if any. The Personnel Commission may hold a hearing at its discretion. The decision of the Personnel Commission shall be final.

## **CHAPTER IX -- EMPLOYMENT STATUS**

### **Rule 9.1 CERTIFICATION OF PAYROLLS**

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Section	9.1.1	Procedure for Certification of Payrolls
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### **Rule 9.2 EMPLOYEE ASSIGNMENT AND WORK HOURS**

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Section	9.2.1	Assignment Data
	9.2.2	Orientation of New Employees
	9.2.3	Work Schedules
	9.2.4	Part-time Status
	9.2.5	Flextime Schedules

### **Rule 9.3 PROBATIONARY PERIOD**

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Section	9.3.1	Initial Probationary Period
	9.3.2	Completion of Initial Probation
	9.3.3	Subsequent Probation for Permanent Classified Employees (Education Code Section 88124)

### **Rule 9.4 PERMANENCY**

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Section	9.4.1	Permanent Status Defined
	9.4.2	Rights, Benefits, and Burdens of Permanent Classified Employees

### **Rule 9.5 TRANSFER**

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Section	9.5.1	Transfer Defined
	9.5.2	Position Transfer
	9.5.3	Lateral Transfer
	9.5.4	Transfer in Lieu of Layoff
	9.5.5	Transfer Procedure (Non Fiscal Crisis)
	9.5.6	Transfer Procedure For Unit Members

### **Rule 9.6 CHANGES IN ASSIGNED TIME**

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Section	9.6.1	General Rule
	9.6.2	Increases in Assigned Time
	9.6.3	Decreases in Assigned Time

Rule 9.7 DEMOTION AND RESTORATION

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Section	9.7.1	Voluntary Demotion
	9.7.2	Involuntary Demotion
	9.7.3	Restoration

Rule 9.8 REASSIGNMENT OF DISABLED EMPLOYEES

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Section	9.8.1	General Policy
	9.8.2	Reassignments
	9.8.3	Effect of Refusal by Employee

Rule 9.9 EMPLOYEE PERSONNEL FILE

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Section	9.9.1	General Policy
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## CHAPTER IX

### EMPLOYMENT STATUS

Rule 9.1 CERTIFICATION OF PAYROLLS (EDUCATION CODE SECTION 88129)

9.1.1 PROCEDURE FOR CERTIFICATION OF PAYROLLS

- A. No person shall be appointed to a position in the classified service unless the assignment order is approved by the Personnel Director. The Personnel Director shall certify that the person who was named and the assignment are in accordance with these rules and the provisions of the Education Code.
- B. The Personnel Director shall audit all changes of status for classified employees. He/she shall certify that all changes are in accordance with existing law and these rules.
- C. All time sheets, payroll reports or other financial or employment documents shall be made available to the Personnel Director upon request. He/she may audit all payrolls to insure that these assignments are in accordance with the law and these Rules. He/she shall immediately notify the Superintendent or his/her designee of any irregularities and attempt to resolve these problems.
- D. When irregularities remain unresolved, the Personnel Director shall notify the Personnel Commission, who may, after a public hearing, order that no salary warrant be thereafter drawn to the employee.

Rule 9.2

EMPLOYEE ASSIGNMENT

9.2.1

ASSIGNMENT DATA

- A. Upon initial assignment and upon each change in class thereafter, each regular classified employee shall be furnished:
  - 1. An offer of employment or change of status notice listing his/her salary including the pay period; the hourly daily, monthly, annual, overtime and differential rates of compensation, as applicable; the duty hours, prescribed work week, work year, and work location.
  - 2. A copy of his/her class description and a duty list for his/her position, if available.
  - 3. The terms and conditions of the probationary period, including evaluation procedures and dates.
- B. The employee shall sign an acknowledgement of receipt of the data; one copy shall be retained by the employee, one copy shall be sent to the employee's supervisor and one copy shall be placed in the employee's file.
- C. The District shall have the right to make reasonable changes in the employee's work schedule. When such a change is to be made, the supervisor shall notify the employee and the Personnel Director in writing at least five (5) days prior to the effective date of the change.

9.2.2

ORIENTATION OF NEW EMPLOYEES

- A. Within five (5) working days of assignment, each employee shall receive a work orientation at which he/she shall be advised of all information relating to his/her employment status, including specific duty hours, break time and lunch period, work rules and department regulations, procedure for reporting absences, the terms and conditions of probation, and performance evaluation procedures.

9.2.3

WORK SCHEDULE (EDUCATION CODE SECTIONS  
88026, 88010.5, 88180, 88031)

- A. The standard workweek shall be 40 hours, consisting of one of the following work patterns:
1. Five (5) consecutive workdays of eight (8) hours per day in one (1) calendar week (5/40).
  2. Eight (8) workdays of nine (9) hours per day and one (1) workday of eight (8) hours in a two (2) calendar week period (9/80).
  3. Four (4) workdays of ten (10) hours per day in one (1) calendar week. (4/40).

An employee may request any of the above work schedule patterns through the District's flextime policy. See Rule 9.2.5.

- B. For purposes of payroll computation, the work week shall begin either at 12:01 AM on Sunday and shall end at 12:00 Midnight the following Saturday or at 12:00 Noon on Friday and shall end at 11:59 the following Friday.
- C. When a department supervisor proposes to permanently reassign a classified employee to a workweek, which includes Saturday or Sunday, he/she shall notify the employee in writing and secure the employee's written consent. No classified employee shall be assigned at any time to perform services on Saturday or Sunday if the classified employee certifies in writing that the assignment would conflict with his/her religious practices or beliefs.
- D. Each employee who works five (5) or more hours per workday shall be entitled to an unpaid lunch period consisting of at least one-half (1/2) hour as scheduled by his/her immediate supervisor.
- E. With the consent of his/her supervisor, an employee assigned to a work schedule of five (5) hours per day may be allowed to waive his/her lunch period.

Section 9.2.3  
Section 9.2.3.F

- F. Each employee who works four (4) or more hours per day shall be entitled to one paid 15 minute break per four (4) hours as scheduled by his/her immediate supervisor.
- G. The starting and ending times of the workday and the lunch and break periods shall be determined by the immediate supervisor. The lunch period for full time employees shall be scheduled as near as possible to the middle of each workday and break periods shall be scheduled as near as possible to the middle of each four (4) or five (5) hour shift.
- H. Employees assigned to a four (4) day, ten (10) hour per day week or a nine (9) hour day, 80-hour biweekly work pattern shall be eligible for overtime compensation as provided in Rule 12.3.2.

9.2.4

PART-TIME EMPLOYMENT (EDUCATION CODE SECTIONS 88035, 88036)

- A. A part-time position is an assignment of less than 35 hours per week.
- B. Part-time employees, hired into regular positions, shall be entitled to all the rights, benefits, and burdens of full-time classified employees serving in the same job family. These benefits shall be prorated.
- C. Whenever a regular part-time employee is required to work for 30 minutes or more per day in excess of the regular assigned time of his/her position for 20 consecutive workdays, the assigned time of his/her position shall be changed to reflect the increased assignment. (See Rule 9.6.2.)

9.2.5

FLEXTIME (ADMINISTRATIVE POLICY)

- A. It shall be the policy of the Santa Monica Community College District to allow employees and their supervisors to rearrange the employee's work schedule to allow each individual greater control over when hours are worked.
- B. Flextime shall include:
  - 1. The work patterns listed in Rule 9.2.3. (9/80, 4/40), when these work patterns are employee-initiated.
  - 2. A work schedule with nonstandard starting and ending time; example: Monday - Friday, 6:00 AM - 2:45 PM.
  - 3. A work schedule with regularly alternating work hours on different days: example: M, W, F, 7:00 AM - 3:45 PM; T, Th, 10:00 AM - 6:45PM.
  - 4. A nonstandard lunch schedule within the workday; example: 7:45 AM - 4:15 PM (1/2 hr.); 7:30 AM - 4:15 PM (3/4 hr.); 7:30 AM - 4:30 PM (1 hr.)

- C. Flextime scheduling shall be approved/disapproved by the immediate supervisor, the department head, and the Personnel Director. In approving/disapproving the request, each supervisor shall take into account the needs of the employee as well as the student, faculty and public service needs of the department and the District.

Rule 9.3

PROBATIONARY STATUS (EDUCATION CODE SECTION 88120)

9.3.1

INITIAL PROBATIONARY PERIOD

- A. Each new employee appointed from an eligibility list shall serve an initial probationary period of six (6) months or 130 working days, which ever is longer, in one class, before attaining permanency in the classified service.
- B. For classes designated by the Personnel Commission as executive, administrative, or supervisory, or for employees designated as peace officers, the probationary period shall be one calendar year.
- C. Credit toward completion of probation shall be granted only for service in a regular position in a class after appointment from an eligibility list, and shall not include time while an employee is absent from his/her work for ten (10) or more consecutive workdays.

9.3.2

COMPLETION OF INITIAL PROBATION

- A. Each probationary classified employee shall be evaluated on job performance by his/her immediate supervisor.
- B. The schedule of evaluation shall be at the end of the second, end of the fourth and prior to completion of the sixth month of employment.
- C. A new employee may be disqualified at any time during the probationary period.
- D. A new classified employee shall be given a written notice of acceptance into or disqualification from the permanent classified service prior to the date on which the probationary period ends. Whenever a new employee is to be disqualified, the immediate supervisor shall prepare a written report, which shall be submitted for approval to the next level supervisor and the District Personnel Administrator who, upon approval, shall notify the employee of the action taken. A copy of the notice shall be filed simultaneously with the Personnel Director.
- E. A new employee who is to be disqualified may be allowed the opportunity to resign in lieu of disqualification, prior to board action.
- F. A new employee shall not have the right to appeal disqualification, suspension, or dismissal unless the appeal is based on a claim of discrimination because of his/her affiliations, race, color, national origin, age, marital status, sexual orientation, gender, physical or mental disability, ancestry, medical condition (as defined in Government Code Section 12916), employee organization membership or non- membership, or religious or political beliefs or acts.
- G. A new employee who resigns in good standing during his/her initial probationary period shall, upon request, have his/her name restored in proper rank to the eligibility list. However, such action shall not extend the life of the list or the period of eligibility of the person.



9.3.3

SUBSEQUENT PROBATION FOR PERMANENT  
CLASSIFIED EMPLOYEES (EDUCATION CODE SECTION  
88124)

- A. A permanent classified employee who has been promoted, transferred, or who has demoted voluntarily to a new class in which the employee has not previously served, shall serve a new probationary period in the class, before attaining permanency in that class.
- B. A permanent employee who has been promoted to a higher class, or transferred to a new class, may be involuntarily returned to his/her former class due to unsatisfactory work performance in the event he/she receives an unsatisfactory second or third performance evaluation. The employee shall not have the right to appeal, unless the demotion will result in separation of the employee from the classified service, or the employee alleges the action is based on discrimination as listed in Rule 9.3.2 above.
- C. Suspension, or dismissal of a permanent classified employee serving a probationary period in a new class shall constitute disciplinary action and the employee shall retain his/her full right of appeal as provided in Rule 14.2.

Rule 9.4

PERMANENCY

9.4.1

PERMANENT STATUS DEFINED (EDUCATION CODE SECTION 88120)

- A. Upon successful completion of the prescribed initial probationary period, a classified employee shall be deemed to be in the permanent classified service.
- B. Except as provided below, the probationary period shall be 6 calendar months or 130 working days, whichever is longer.
- C. For classes designated as executive, administrative or supervisory, and for law enforcement and security classes, the probationary period shall be one calendar year.

9.4.2

RIGHTS, BENEFITS AND BURDENS OF PERMANENT CLASSIFIED EMPLOYEES

- A. Every permanent classified employee shall be entitled to all the rights, benefits and burdens conferred by law or by the action of the Board of Trustees for classified employees of like classification, including a vested right to his/her position. A permanent classified employee may be removed only for cause as listed in Rule 14.1, due to lay-off or as otherwise specified in these Rules.

Rule 9.5

TRANSFER (EDUCATION CODE SECTION 88097)

Transfer procedures for unit members are contained in Article 6 of the District/CSEA Contracts.

9.5.1

DEFINITIONS

- A. A position transfer shall mean the reassignment of an employee from one position to another position in the same class.
- B. Lateral transfer shall mean the reassignment of an employee to a position in a similar or related class with the same salary range.
- C. Transfer in lieu of layoff shall mean the reassignment by transfer without examination of an employee who meets the minimum qualifications, to a vacant position within a different classification with the same salary range or to a vacant position in a different classification with a lower salary rate provided that:
  - 1. the position has not been designated by the District as ineligible to be filled by transfer in lieu of layoff, and
  - 2. the employee has not previously achieved permanent status in the classification in which the position resides.

9.5.2

POSITION TRANSFER

- A. Position transfers may be made within the classified service from one position in a class to another position in the same class. A position transfer may be initiated by the Administration or at the request of the employee.
- B. Administration initiated position transfers may be made at any time for the good of the service upon approval of the District Personnel Administrator and the department supervisor(s) affected, and shall be governed by the following procedures:
  - 1. An employee who is about to be transferred shall be notified in writing by his/her immediate supervisor of the reason(s) for the transfer at least five (5) working days prior to the effective date of the transfer.

2. Employees shall not be transferred solely for punitive or preferential reasons.

PC approved: 7/23/03; presented for revision PC: 5/20/03

- C. An employee may initiate a position transfer if he/she has permanent status in the classified service and is performing satisfactorily in his/her position. An employee currently under evaluation for unsatisfactory work performance may initiate a transfer request only upon the approval of the Personnel Director.

9.5.3

LATERAL TRANSFER

- A. Transfers from a position in one class to a position in another related class must first be approved by the Personnel Director subject to ratification by the Personnel Commission at the next regular meeting. Such approval may be given only when the transfer is lateral. Determination of whether classes are sufficiently related to permit transfer between them shall be based on similarity of:
  - 1. Entrance qualifications.
  - 2.. Examination content.
  - 3. Duties and responsibilities.
- B. The extent to which the two classes must be comparable may depend on additional factors. In general more latitude is allowed:
  - 1. As an employee's length of service with the District increases.
  - 2. When the request for transfer is based on layoff, reclassification, or health.
- C. A permanent employee who transfers to a new class in which he/she has not completed a probationary period shall serve a new probationary period in the class. Seniority in each of the classes shall be counted separately.

#### 9.5.4

### Transfer in Lieu of Layoff

#### A. Authorization

1. Transfer in lieu of layoff may be considered by the District upon passage by the Board of Trustees of a Resolution for Layoff of positions in the classified service due to lack of work or lack of funds.
2. Transfer in lieu of layoff shall only occur for employees who do not have displacement (bumping) rights and will be separated from the classified service as the result of a layoff.
3. Transfer in lieu of layoff may only occur to positions at the same salary range or lower.

#### B. Eligibility

1. Employees who have gained permanent status are eligible to be considered for transfer in lieu of layoff.
2. Employees with fewer than six months of service in their position are not eligible to be considered for transfer in lieu of layoff.

#### C. Minimum Qualifications

An employee considered for transfer in lieu of layoff must meet the minimum qualifications of the classification of the position for which he or she is being considered.

#### D. Subsequent Probation ( Education Code Section 88124)

1. shall serve a new probationary period in the position into which they transferred before attaining permanency in the classification. In those instances where an employee has already attained permanency in the classification into which he or she is proposing to transfer in lieu of layoff, he or she will not serve another probationary period.
2. Failure to pass the probationary period shall result in dismissal from the position. The employee's

name will remain on the reemployment list of the position from which he or she was initially laid off.

3. Successful completion of the probationary period shall mean that the employee is deemed to be in the permanent classified service and will enjoy all the rights, benefits and burdens associated therewith.

E. Salary

Salary placement of an employee who accepts transfer in lieu of layoff shall be at the same step as the employee's current salary of the lower or equal salary range of the position into which he or she will be transferring.

F. Seniority ( Education Code Section 88127)

Seniority will accrue to persons who are transferred in lieu of layoff in the new classification beginning on the first day of service in the class and as defined in Merit System Rule 13.1.

G. Longevity

Longevity credits earned prior to transfer in lieu of layoff shall be retained.

H. Procedure

1. Within two (2) working days of the passage of the Resolution for Layoff by the Board of Trustees the District Human Resources office will notify the Personnel Commission in writing of vacant positions ineligible to be filled by transfers in lieu of layoff. In the absence of a list of ineligible positions, the Personnel Commission will deem all positions eligible to be considered for transfer in lieu of layoff.
  - a. The Personnel Commission will certify layoff lists to the District within five (5) working days after confirmation of the Resolution for Layoff. These layoff lists will contain the names of persons who could be separated from service as the result of displacement (bumping).
  - b. The District Human Resources Office will send the initial notice of layoff to those

persons occupying the position identified by the Board of Trustees. This initial notice of layoff shall be given at least 45 calendar days prior to the effective date of the layoff. The Personnel Commission will within the 45-day notification, contact all those persons whose names are on a layoff list and advise them they may submit an application for an evaluation of their experience and education for possible transfer in lieu of layoff.

2. Determination of whether an employee meets the minimum qualifications of a position to be filled by transfer in lieu of layoff shall be done by the Personnel Commission within the 45-day notification of layoff period.

a. Employees seeking transfer in lieu of layoff must submit an Application for Classified Employment to the Personnel Commission within five (5) working days of the date of the receipt of the District's initial notification of layoff.

b. An employee who meets the minimum qualifications of vacant position will have his or her name placed on a transfer in lieu of layoff list, which shall be formally ratified by the Personnel Commission before names are certified to the District.

(1) A transfer in lieu of layoff list shall be considered an employment list as defined by Merit System Rule 6.1

(2) An employment list established pursuant to the provisions of this rule shall consist of the names of current employees who are eligible for transfer in lieu of layoff into a vacant position without competitive examination.

(3) A transfer in lieu of layoff list shall take precedence over all other employment and eligibility list. This list shall contain the names of all



regular classified employees who meet the minimum qualifications for the classification for which the list is established and who, because of lack of work or lack of funds, will be separated from the classified service.

I. Certification

If two or more persons are eligible to transfer to a vacant position, the person with the greatest total seniority in the classification service who meets the minimum qualifications of the classification, shall be offered the first transfer in lieu of layoff opportunity. If that person declines the opportunity his or her names shall be removed from the transfer in lieu of layoff list and he or she will be laid off. Upon declination by the first person eligible for transfer in lieu of layoff, the next person with the next greatest total seniority in the classification of the vacancy, will be offered the transfer in lieu of layoff. If the second person declines the opportunity his or her name shall be removed from the transfer in lieu of layoff list and he or she will be laid off. Each subsequent offer made will be made to persons, in seniority order, who meet the minimum qualifications of the vacant position(s) as defined above.

J. A final notice of layoff will be sent by the Personnel Commission to persons who are unable or unwilling to transfer in lieu of layoff

K. Reemployment

Persons who attain permanency in a position into which they transferred in lieu of being laid off will have their names placed on a reemployment list for the classification into which they transferred in the event a subsequent reduction in force (layoff) in that classification due to lack of work or lack of funds. The reemployment list established shall have the same force and effect as any other reemployment list pursuant to Education Code Sections 88117 and 88127 and Merit System Rules 6.1.1 and 13.4.1

9.5.5

TRANSFER PROCEDURE ( Non Fiscal Crisis)

- A. Transfer opportunities in vacant positions during periods of non-fiscal crisis, which shall be defined as periods when no layoffs are pending as the result of the passage of a Resolution for Layoff by the Board of Trustees shall be announced to employees by a written bulletin which shall be distributed and posted for ten (10) working days at work locations pursuant to the negotiated Agreement between the District and CSEA.
- B. A permanent employee may request a transfer by submitting a transfer request to the Personnel Director. A permanent employee may request to be notified of transfer opportunities, which occur during his/her non-work recess or leave period(s) by submitting a written request to the Personnel Director. Notification shall be sent by U.S. mail to the last mailing address listed for the employee in the Personnel Commission Office.
- C. The Personnel Director shall certify the names of qualified position transfer applicants to the department supervisor for interview as provided in Rule 6.3.4. The department supervisor shall consider transfer applicants based on specific skills and qualifications, and prior job performance as evidenced by the employee's most recent job performance evaluation. A selection may be made from the transfer applicants, or the department supervisor may request certification from the appropriate eligibility list.
- D. The department supervisor shall notify the Personnel Director of his/her decision within three (3) working days after completion of the interviews. An employee selected for transfer shall be released within 10 working days after the date of selection, unless otherwise agreed to by all parties. The effective date of transfer shall be communicated in writing to all parties by the Personnel Director.
- E. A transfer shall not change the employee's range and step placement on the salary schedule, salary increment date, accumulated leave and vacation

credit, nor in any other manner adversely affect his/her rights, as provided in law and these Rules.

9.5.6

APPLICATION OF TRANSFER PROCEDURE FOR UNIT MEMBERS

- A. Transfers for unit members shall be made in accordance with these rules and the provisions of Article 6 of the collective bargaining agreement between the Santa Monica Community College District and Santa Monica Chapter 36 California School Employees' Association.

Rule 9.6

CHANGES IN ASSIGNED TIME

9.6.1

GENERAL RULE

- A. When a class contains permanent positions of varying hours of work per day, week, or month, the position shall be filled by certifying requesting employees and eligibles from the eligibility list as provided in Rule 6.3.

9.6.2

INCREASES IN ASSIGNED TIME (EDUCATION CODE SECTION 88036)

- A. When a part-time employee is required to work for 30 minutes or longer per day in excess of the regular assigned time of his/her position for 20 consecutive workdays, the assigned time of the position will be increased to reflect the longer hours.
- B. For purposes of this rule, when an increase in time of more than one hour per day is assigned to an existing permanent position the position shall be considered vacant.
- C. Such a vacant position shall be filled in accordance with Rule 6.3.
- D. An increase in time of one hour or less per day assigned to an existing permanent position shall not cause the position to be considered vacant, and the increased time shall be assigned to the existing incumbent.

9.6.3

DECREASES IN ASSIGNED TIME (REDUCTION)

- A. For the purpose of this Rule, a decrease in the assigned time per day, hours per week, or months per year of an existing permanent position shall be considered a layoff for lack of funds or lack of work.
  
- B. When the regular assigned hours of a position or positions are to be reduced, the District Personnel Administrator shall:
  - 1. Determine the class(es) and location(s) to be affected by the reduction.
  
  - 2. Notify the employees affected and the Personnel Director of the effective date of the reductions and the Board approval date. Notifications shall be made at least 30 days prior to the effective date.
  
  - 3. Process reductions according to the paragraph below and Rule 13.2.
  
- C. When the Board of Trustees has approved a reduction in the assigned time of a permanent position, the incumbent shall be transferred into any vacant position in the class, which is not greater in assigned time than the employee's original position. If a vacant, permanent position of equal time is not available, the incumbent shall have the right to displace (bump) into the position with equal time held by the employee with the least seniority in the class, provided that the employee exercising the bumping has greater seniority. If neither option is available, the employee may displace (bump) into a position with less time, provided he/she has greater seniority than the least senior incumbent. The employee who is displaced (bumped) shall have the same displacement (bumping) rights.

Section 9.6.3.D

- D. Every employee shall have the opportunity to voluntarily accept a reduction in assigned time in order to remain in his/her position, before he/she is transferred to another position. Employee-initiated requests for voluntary reduction to another position with lesser hours shall be processed as a voluntary demotion in accordance with Rule 9.7.

Rule 9.7

DEMOTION AND RESTORATION

9.7.1

VOLUNTARY DEMOTION

- A. A permanent classified employee may request a voluntary demotion to a vacant position in a class with a lower maximum salary rate provided that:
1. The employee has previously achieved permanent status in the class, or;
  2. The request for demotion is to a related class in the same occupational group.

The request shall be subject to approval by the Personnel Director.

- B. An employee may request a voluntary reduction in assigned time in lieu of layoff in order to remain in his/her present position rather than to be reclassified or reassigned.
- C. A permanent employee may accept a temporary demotion on a voluntary basis to fill a limited-term position or a summer assignment.
- D. A voluntary demotion is a privilege available to a probationary employee only in cases when he/she would otherwise be laid off.
- E. An employee who demotes to a position in a class in which he/she does not hold permanency shall complete the appropriate probationary period in the new class.
- F. Salary placement for employees who voluntarily demote to a class with a lower salary rate, shall be in accordance with Rule 12.2.9.



9.7.2

INVOLUNTARY DEMOTION (EDUCATION CODE SECTION 88121)

- A. Involuntary demotion is a disciplinary action for cause and is subject to the pertinent procedures listed in Rule 14.1.
- B. A permanent employee who has been promoted to a higher class, or transferred to a new class may be involuntarily returned to his/her former class during the probationary period due to unsatisfactory work performance without the right of appeal. (See Rule 9.3.3.)
- C. A permanent employee who is involuntarily demoted at any time other than the probation period(s) listed in paragraph B above, shall have the right to appeal. See 14.2.
- D. Salary placement upon involuntary demotion shall be in accordance with Rule 12.2.9.

9.7.3

RESTORATION (EDUCATION CODE SECTION 88117)

- A. An employee who has taken a voluntary demotion may be restored to a vacant position in his/her former class within 39 months. Restoration shall be discretionary with the appointing authority except when demotion or reduction was chosen in lieu of layoff.
- B. Employees, who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff or to remain in their present position rather than to be reclassified or reassigned, shall be granted the same 39 month reemployment rights as all laid off employees and shall also be given an additional 24 month reemployment period, provided that the same qualifications for the class still apply. The Personnel Commission shall make a determination of the specific eligibility period for each class. See Rule 13.4.

Section 9.7.3.C

- C. Employees who take voluntary demotions or reductions in assigned time in lieu of layoff shall have the option to return to a vacant position in their former class or to a vacant position with increased time without time limitation.
- D. Salary placement shall be in accordance with Rule 12.2.13.

Rule 9.8

ASSIGNMENTS OF DISABLED EMPLOYEES  
(EDUCATION CODE SECTION 88098)

9.8.1

GENERAL POLICY

- A. When a permanent employee becomes unable to perform the duties of his/her classification because of illness or injury as determined by medical authority designated by the District, the employee may be reassigned to new duties, which are within his/her capabilities. Reassignment, if any, shall be at the discretion of the appointing authority, with the approval of the Personnel Commission as prescribed in this Rule.

9.8.2

REASSIGNMENTS

- A. A disabled employee's duties in his/her regular position may be altered in accordance with his/her disability. Such changes in duties shall be reported to the Personnel Director, and are subject to classification by the Personnel Commission.
- B. A disabled employee may accept demotion or transfer to a less demanding position in another class, with the approval of the Personnel Commission.
- C. A disabled employee may be assigned to a position in a higher class, with the approval of the Personnel Commission, but shall receive no salary benefit from such assignment until he/she is appointed to the higher class from an eligibility list resulting from a competitive examination.

9.8.3

EFFECT OF REFUSAL BY EMPLOYEE

- A. A disabled employee may refuse assignments to other classes without effect on his/her rights under sick leave provisions of the law and these Rules. However, there is no obligation for the appointing authority to renew offers of reassignment, which have been refused, or to make alternative offers.

Rule 9.9

EMPLOYEE PERSONNEL FILE (EDUCATION CODE SECTION 87031) (GOVERNMENT CODE SECTION 6250)

9.9.1

GENERAL POLICY

- A. The District shall maintain an official employee personnel file for each classified employee. The file shall be confidential.
- B. The employee personnel file shall be available for inspection by the Superintendent, the District Personnel Administrator and the Personnel Director and designated members of their designated staffs, a line manager above the employee, and the employee or his/her representative. When an employee wishes to inspect his/her personnel file, he/she shall request the approval of his/her supervisor for release time and make proper arrangements with the Classified Personnel Department.
- C. Materials in the employee's personnel file which may affect the status of his/her employment are available for inspection by the employee, except that, such materials shall not include confidential ratings, reports or records which were:
  - 1. Obtained prior to the employment of the employee.
  - 2. Prepared by examination committee members.
  - 3. Obtained in connection with a promotional examination.
- D. Whenever information of a derogatory nature is to be entered into an employee's personnel file, he/she shall first be given written notice that he/she has five (5) working days to review the information and submit a written comment on it. Such a review shall take place during normal business hours and without loss of pay to the employee.

PERSONNEL COMMISSION

SANTA MONICA COLLEGE

MERIT RULES

CHAPTER X

Presented to the Personnel Commission for First Reading on June 17, 1992.

Approved by the Personnel Commission on July 8, 1992.

## **CHAPTER X -- PERFORMANCE EVALUATIONS**

Rule 10.1

### **GENERAL PROVISIONS**

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Section	10.1.1	Performance Evaluation Defined
	10.1.2	When Evaluations are to be made
	10.1.3	Procedures to be followed
	10.1.4	Reports on Special Assignments
	10.1.5	Commendation
	10.1.6	Unsatisfactory Service
	10.1.7	Application of Evaluation Procedures to Unit Members

## CHAPTER X

### PERFORMANCE EVALUATIONS

#### Rule 10.1

#### GENERAL PROVISIONS

Performance evaluation procedures for unit members are contained in Article 4 of the District/CSEA Contracts.

#### 10.1.1

#### PERFORMANCE EVALUATION DEFINED

Performance evaluation shall be defined as periodic opportunity for a supervisor to measure an employee's performance on the job against the standards and requirements of his/her position as stated in the class description.

#### 10.1.2

#### WHEN EVALUATIONS ARE TO BE MADE

- A. The schedule of evaluation during the probationary period shall be as follows:
  - 1. For employees serving a six (6) month probation period - at the end of the second and fourth months of service and prior to completion of the sixth month of service.
  - 2. For employees serving a one year probationary period - at the end of the fourth and eighth months of service and prior to completion of the twelfth month of service.
- B. Evaluation of promoted and transferred employees shall be according to the schedule listed above.
- C. The schedule of evaluation for permanent non-management classified employees shall be annually between March 15 and May 15 of each year.
- D. The schedule of evaluation for classified management employees shall be once per college year and may include the evaluation input of management, faculty and classified staff.
- E. If the immediate supervisor does not submit an annual evaluation by the time limit, the employee may submit his/her statement of goals and objectives for the coming year, if he/she chooses.

### 10.1.3

#### PROCEDURES TO BE FOLLOWED

- A. Performance evaluation reports shall be made on the appropriate forms approved by the Personnel Commission. The report shall be prepared by the employee's immediate supervisor and shall be based on his/her knowledge or observation of the employee's performance.
- B. Evaluation ratings shall be accompanied by appropriate documentation as follows:
1. an "unsatisfactory" rating shall contain a specific description of the deficient or substandard performance
  2. a "needs improvement" shall list suggestions for the required improvement
  3. an "outstanding" rating shall be accompanied by supporting comments
- C. The immediate supervisor shall present the performance evaluation report to the employee at an evaluation conference which shall include a review of the specific ratings given to the employee and suggestions for improvement where applicable. The conference shall take place during the employee's working hours. All copies of the evaluation report shall be signed by the employee to indicate receipt. Should the employee refuse to sign, the fact shall be noted on all copies of the evaluation form.
- D. The employee shall be notified by his/her immediate supervisor that the employee has seven (7) working days to attach a rebuttal before the evaluation is filed in the employee's personnel file.



Section 10.1.3.E

- E. The performance evaluation report shall be distributed as follows: One copy of the evaluation shall be retained by the employee, one copy shall be retained by the immediate supervisor and one copy shall be sent to the Classified Personnel department for filing in the employee's personnel folder upon completion of the seven (7) working day rebuttal period.
- F. If the employee wishes to file a rebuttal the employee shall submit his/her comments in writing to the Personnel Director prior to the expiration of the seven (7) working day period. Upon receipt of the rebuttal, the Personnel Director shall forward a copy to the immediate supervisor and the second level supervisor who shall meet with the employee in an attempt to resolve the disagreement. The second level supervisor shall prepare, within ten (10) working days, a report of this conference which shall be filed in the department, with the employee, and in the employee's personnel file. The determination of the second level supervisor shall be final.
- G. Performance evaluation reports and attached rebuttal statements shall be available for review for a one year period, in connection with promotional examinations.

10.1.4

REPORTS ON SPECIAL ASSIGNMENTS

- A. For purposes of this rule, a special assignment is defined as a provisional appointment of a classified employee to a position for a period not to exceed 90 working days for which an eligibility list does not exist. This 90 day period may be extended by Personnel Commission action per Merit Rule 7.2.
- B. For purposes of this rule, Career Laddering is a special assignment defined as an assignment which places an employee in a job outside of the employee's regular assignment and which represents a vertical, lateral, or downward path towards a new career opportunity. A career laddering assignment is limited to 90 working days per paragraph A above.
- C. A permanent employee on a provisional or career laddering assignment with an expected duration of 30 days or more shall receive a written progress report, on the appropriate District form, at the completion of the first, third, and fifth months of the assignment.
- D. Provisional and career laddering assignments are temporary and do not automatically entitle the employee to probationary or permanent status. To obtain the position permanently, the employee must successfully compete through the regular merit system process.
- E. The progress report is for feedback purposes only and does not constitute a formal evaluation process as described in Rule 10.1. It is not subject to review in connection with promotional examinations or appointment.

Section 10.1.4.F

- F. Within ten (10) days after the end of the special assignment, the supervisor shall complete a final summary report outlining the employee's accomplishments during the special assignment which shall include a statement by the employee. This summary report shall become a part of the employee's permanent personnel record in accordance with the procedures contained in Merit Rule 9.9.

Approved: P. C. 10/9/91 Revised: P.C. 7/8/92

10.1.5

COMMENDATION

- A. Whenever a regular classified employee performs service of an exemplary character, he/she may be given a written commendation in recognition of his/her exemplary service. The commendation shall be prepared and signed by the employee's immediate supervisor and shall be placed in the employee's personnel file.

10.1.6

UNSATISFACTORY SERVICE

- A. A classified employee may be evaluated by his/her immediate supervisor at any time when unsatisfactory service is performed. The evaluation shall be made no later than 30 calendar days after the unsatisfactory work performance has taken place, on the appropriate Notice of Need for Work Improvement or Disciplinary Action Notice as provided in Rule 14.1.

10.1.7

APPLICATION OF EVALUATION PROCEDURES TO UNIT MEMBERS

- A. Performance evaluations for unit members shall be made in accordance with this Rule and Article 4 of the Agreements between the Santa Monica Community College District and Santa Monica Chapter 36, CSEA.

PERSONNEL COMMISSION

SANTA MONICA COLLEGE

MERIT RULES

CHAPTER XI

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Rule Revision 11.10.5 Approved by the Personnel Commission on November 19, 2014.

## **CHAPTER XI -- VACATION, LEAVES OF ABSENCE, AND HOLIDAYS**

### **Rule 11.1 VACATION LEAVE (EDUCATION CODE SECTION 88197)**

Section	11.1.1	Ratio for Earning Vacation Leave for Management and Confidential Employees
	11.1.2	Ratio for Earning Vacation Leave for Unit Employees
	11.1.3	Vacation Leave Procedures
	11.1.4	Vacation Leave for Twelve Month Employees
	11.1.5	Vacation Leave for Less Than Twelve Month Employees
	11.1.6	Interruption of Vacation Leave (Education Code Section 88200)
	11.1.7	Unit Members

### **Rule 11.2 LEAVES OF ABSENCE (EDUCATION CODE SECTIONS 88198, 88199)**

Section	11.2.1	General Provisions
	11.2.2	Procedure for Request and Notification of Absence
	11.2.3	Application of Leave of Absence Provisions to Unit Members

### **Rule 11.3 SICK LEAVE (EDUCATION CODE SECTION 88191)**

Section	11.3.1	Regular Sick Leave Provisions
	11.3.2	Industrial Accident and Industrial Illness Leave (Education Code Section 88192)
	11.3.3	Verified Illness Leave (Extended Sick Leave) (Education Code Section 88196)
	11.3.4	Unpaid Illness Leave (Education Code Section 88195)
	11.3.5	Return from Sick Leave
	11.3.6	Application of Sick Leave Provisions to Unit Members

### **Rule 11.4 BEREAVEMENT LEAVE (EDUCATION CODE SECTION 88194)**

Section	11.4.1	General Provisions
	11.4.2	Immediate Family Defined
	11.4.3	Bereavement Leave for Other Than Immediate Family Members
	11.4.4	Application of Bereavement Leave Provisions to Unit Members

Rule 11.5 PERSONAL NECESSITY LEAVE (EDUCATION CODE SECTION 88207)

Section	11.5.1	General Provisions
	11.5.2	Application of Personal Necessity Leave Provisions to Unit Members

Rule 11.6 MATERNITY LEAVE (EDUCATION CODE SECTION 88193)

Section	11.6.1	General Provisions
	11.6.2	Application of Maternity Leave Provisions to Unit Members

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## CHAPTER XI

### VACATION, LEAVES OF ABSENCE AND LIDAYS

Rule 11.1

#### VACATION LEAVE (EDUCATION CODE SECTION 88197)

Vacation provisions for unit members are contained in Article 9 of the District/CSEA Contract.

11.1.1

#### RATIO FOR EARNING VACATION LEAVE FOR MANAGEMENT AND CONFIDENTIAL EMPLOYEES

- A. All regular classified management or confidential employees shall earn vacation at the following rate:
  - 1. 12 month employees - 24 days/192 hours per year.
  - 2. 11 month employees - 22 days/176 hours per year.
  - 3. 10 month employees - 20 days/160 hours per year.
- B. Management and confidential employees shall be credited at the beginning of the fiscal year with the full amount of vacation to which they are entitled for the entire year.
- C. Vacation leave at the rate of 2 days/16 hours per month shall be deducted for any month in which the employee is not in paid status for more than one-half the working days.

11.1.2

RATIO FOR EARNING VACATION LEAVE FOR UNIT MEMBERS

- A. Regular classified employees who are unit members shall earn vacation at the rate provided in Article 9 of the Agreement between the District and Chapter 36, CSEA:
  - 1. Eight (8) hours per month for employment through three (3) years.
  - 2. Ten (10) hours per month for employment from four (4) through seven (7) years.
  - 3. Twelve (12) hours per month for employment from eight (8) through eleven (11) years.
  - 4. Thirteen and one-third (13.3) hours per month of employment beginning the twelfth year and continuing each year thereafter.
  
- B. Regular classified employees working part-time shall receive prorated vacation leave prorated in the same proportion as the number of hours worked per week bears to 40 and the number of days worked per month bears to full time employment.

11.1.3

VACATION LEAVE PROCEDURES

- A. A regular classified non-management employee shall not be entitled to vacation until the employee has successfully completed the initial six (6) months of continuous employment.
- B. Regular classified non-management employees shall accumulate vacation based on months of service. A month of service shall count in the computation for accumulation of earned vacation when the employee is in paid status during one-half or more of the working days in the month. Vacation shall also be earned during paid leave of absence.
- C. Vacation shall be taken at the convenience of the District and as workload permits upon approval of the department supervisor.
- D. Vacation leave shall be requested in advance on the District Absence Report form and must be approved by the immediate supervisor before it is taken.
- E. In determining the vacation schedule for the department, the supervisor shall give employees the choice of times available on the basis of seniority.
- F. Notwithstanding the provisions of paragraph A, with the approval of the immediate supervisor and the Personnel Director, a classified employee may be advanced vacation up to the allotment to be earned during the school year in which the vacation is to be taken.
- G. Regular classified employees who work part-time shall be entitled to vacation leave prorated in the same proportion as the number of hours worked per week bears to 40 and the number of days worked per month bears to full time employment.
- H. The rate at which vacation is paid shall be the employee's current rate at the time the vacation is taken.
- I. The minimum increment of vacation which can be taken is one hour per day.

- J. Permanent classified employees shall be entitled to lump sum compensation for all earned and unused vacation upon separation from the District.
- K. A classified employee who has not completed six (6) months of continuous employment in regular status at the time of separation from the classified service shall not be entitled to any compensation for vacation.
- L. Upon separation the full amount of salary which was paid to an employee for vacation which has been granted in advance of being earned shall be deducted from the employee's final paycheck.

11.1.4

VACATION LEAVE FOR TWELVE MONTH EMPLOYEES

- A. Regular classified employees assigned to a 12 month work year may take their vacation at any time during the school year upon the approval of the employee's immediate supervisor.
- B. Vacation which is not taken during the fiscal year in which it is earned must be taken within the 14 months following ending on September 1 of the following year. Vacation which is not used within this period shall be forfeited unless extended by the District, or when extenuating circumstances such as illness or bereavement, make the taking of the vacation impossible.

11.1.5

VACATION LEAVE FOR LESS THAN 12 MONTH EMPLOYEES

- A. Classified employees assigned to a work year of less than 12 months shall take their vacation during the school year in which it is earned and will use their vacation during the class recess periods, unless otherwise scheduled by the immediate supervisor.
- B. Classified employees assigned to a less than 12 month work year shall be compensated by lump sum payment for accrued but unused vacation days at the end of their assignment each school year.

11.1.6 INTERRUPTION OF VACATION LEAVE (EDUCATION  
CODE SECTION 88200)

Permanent classified employees may interrupt vacation leave in order to begin another type of paid leave such as sick leave, bereavement leave, or personal necessity leave without a return to active service, provided they give adequate and timely notice furnishing relevant supporting verification to the Classified Personnel Department.

11.1.7 APPLICATION OF VACATION LEAVE PROVISIONS TO  
UNIT MEMBERS

- A. Vacation provisions for unit members shall be in accordance with Article 9 of the Agreement between the Santa Monica Community College District and Chapter 36, CSEA and this Rule, unless the Rule provision is limited to management and confidential employees.

Rule 11.2

LEAVES OF ABSENCE (EDUCATION CODE  
SECTIONS 88198, 88199)

Leave of absence provisions for unit members are contained in Article 7 of the District/CSEA Contract.

11.2.1

GENERAL PROVISIONS

- A. A leave of absence is an authorization for an employee to be absent from duty for a specific period of time and for an approved purpose.
- B. The granting of a paid leave of absence or an unpaid leave of absence of 6 months or less shall guarantee the employee the right to return to his/her same position.
- C. The granting of an unpaid leave of absence of more than 6 months shall guarantee the employee the right to return to a position of equal status in the employee's same classification, however, the assignment may be in a different department and/or location.
- D. For purposes of this Rule, a position of equal status shall be defined as one in which the assigned work year, workweek and shift are the same as the original position held by the employee before the leave was granted.
- E. Notwithstanding the provisions of paragraphs A and B above, if the Board of Trustees approves the layoff of an employee on a leave of absence, or the abolishment of the employee's position, the leave of absence shall be canceled and the employee shall be notified as required in Rule 13.2.
- F. A leave of absence shall not constitute a break in service, but time on unpaid leave, except military leave as provided in applicable federal or state laws, shall be deducted for purposes of salary increment, longevity, and seniority credit.
- G. An employee on a paid leave of absence shall continue to accrue all benefits to which he/she is entitled as a regular classified employee.

11.2.2

PROCEDURE FOR REQUEST AND NOTIFICATION OF ABSENCE

- A. Each leave of absence request shall be accompanied by the appropriate verification and shall be reported as follows:
1. Absence due to emergency, such as illness, emergency medical treatment, bereavement, or personal necessity shall be reported to the immediate supervisor no later than one hour after the scheduled starting time on the employee's first day of absence. In case of emergency, the employee shall notify the immediate supervisor as soon thereafter as practicable. Unit members shall be governed by the call-in schedule listed in Article 7 of the Agreement between the District and Chapter 36, CSEA.
  2. A written Absence Report form shall be completed and signed by the employee and submitted to the immediate supervisor on the first day the employee returns to work.
  3. Requests for unpaid leaves of absence, except for emergency situations, shall be submitted at least one month in advance with the recommendation of the immediate supervisor to the Classified Personnel Department for final approval. (See Rule 11.13.)
  4. All other requests for leaves of absence, including absence for routine doctor's visits shall be submitted on the appropriate leave request form to the immediate supervisor for final approval at least three (3) working days before the first day of requested absence.

## Section 11.2.2.B

- B. Absence claims and leave requests which do not meet the reporting and request requirements may be denied and the employee may receive no pay for the period of absence or may be refused authorization to be absent. However, the District Personnel Administrator may allow paid or unpaid leave or authorization for absence where the employee can demonstrate that extenuating circumstances prevented his/her from complying with the requirements of this Rule.
- C. Absence without authorized leave shall be grounds for disciplinary action under Rule 14.1.
- D. Allegations that a refusal to grant a leave of absence is due to unfair treatment, abuse of discretion or discrimination are subject to appeal through Administrative channels and ultimately to the Board of Trustees.

### 11.2.3

#### APPLICATION OF LEAVE OF ABSENCE PROCEDURES TO UNIT MEMBERS

- A. Leave of absence procedures for unit members shall be in accordance with Article 7 of the Agreement between the Santa Monica Community College District and Chapter 36, CSEA and this Rule, unless the procedures in this Rule are limited to management and confidential employees.



Rule 11.3

SICK LEAVE (EDUCATION CODE 88191)

Sick leave provisions for unit members are contained in Article 7 of the District/CSEA Contract.

11.3.1

REGULAR SICK LEAVE PROVISIONS

- A. Sick leave is the authorized absence of a regular classified employee when absence is due to:
  - 1. Physical or mental inability to perform the usual and customary duties of his/her position due to illness, injury, pregnancy, miscarriage, childbirth or recovery therefrom, or exposure to contagious disease.
  - 2. A visit to a licensed physician, practitioner, or a psychological or other therapist for examination, treatment, consultation or therapy.
- B. For purposes of these rules, licensed physician, practitioner, or a psychological or other therapist shall be defined per Labor Code Section 3209.3.
- C. Every regular classified employee shall earn one (1) day of sick leave per full month of service as provided below:
  - 1. To qualify for a full month of service, the employee must be in paid status for 1/2 or more of the working days in a calendar month.
  - 2. At the beginning of each fiscal year, the sick leave bank of each regular classified employee assigned to a full time 12 month position shall be credited with 12 days (96 hours).
  - 3. Regular classified employees assigned to a work year of less than 12 months or a workweek of less than 40 hours shall receive sick leave prorated in the same proportion as the number of months bear to 12 and the number of hours worked bear to 40.
  - 4. An employee's sick leave bank shall be adjusted whenever a change of assignment alters the amount of sick leave which is earned.

#### Section 11.3.1.D

- D. Sick leave which is accrued, but not used, shall carry over from one fiscal year to another with no limit on accumulation.
- E. A new probationary employee may not use more than six (6) days of paid sick leave during the initial probationary period.
- F. Pay for any day of sick leave shall be the same pay the employee would have received if he/she had worked that day.
- G. In order to receive sick leave pay, the employee must follow the procedures listed below:
  - 1. Notify his/her supervisor or the party designated by the supervisor of the reason for his/her absence within the first scheduled hour of the first day of absence, as provided in Rule 11.2.2.
  - 2. Complete an Absence Report on the first day of return to work.
  - 3. When the absence period is five (5) consecutive working days or more, 40 work hours for employees on alternate work patterns, the employee must submit medical leave of absence request accompanied by medical verification to the Classified Personnel Office as soon as possible and a medical release from his/her physician prior to readmission to work as provided in Rule 11.3.5.
- H. The medical leave of absence request shall be presented to the Personnel Director for approval/disapproval.
- I. A medical release must include a statement of the nature of the illness and the dates when the employee has been under care or treatment and must be signed by a licensed physician, surgeon, practitioner, psychologist or other therapist.
- J. Upon separation any unearned sick leave which has been taken shall be deducted from the employee's last pay check.

- K. The minimum increment of paid sick leave which may be taken is one (1) hour.

11.3.2

INDUSTRIAL ACCIDENT AND INDUSTRIAL ILLNESS  
LEAVE (EDUCATION CODE SECTION 88192)

- A. An industrial accident or illness shall be defined per Labor Code Section 3208 as any injury or disease arising out of employment. Industrial accident or industrial illness leave shall be granted in accordance with the provisions of Education Code Section 88192 and this Rule.
- B. An employee in the classified service, who is absent from duty because of an illness or injury defined as an industrial illness under provisions of the Worker's Compensation Insurance Law, shall be granted paid industrial accident leave for each such accident or illness while receiving temporary disability benefits as specified under Labor Code Sections 4453 and 4460 provided that:
  - 1. The employee has probationary or permanent status.
  - 2. The employee has reported the injury or illness to his/her supervisor on a District Accident report form no later than the day of the injury or onset of illness.
  - 3. In the opinion of the Director of Administrative Services, the illness or injury constitutes an industrial accident or illness, or, if contested by the District, it is ultimately determined to be work connected.
- C. Paid industrial accident leave shall be for not more than 60 working days in any one fiscal year for the same industrial illness or accident. If the full 60 days will overlap into the next fiscal year, the employee shall be entitled only to that amount of leave remaining from the previous fiscal year.
- D. Paid industrial accident and illness leave shall be reduced by one day for each day of authorized absence regardless of the temporary disability allowance made under Labor Code Sections 4453 and 4460. Days absent while on paid industrial accident or illness shall not be deducted from the number of days of paid sick leave to which an employee may be entitled.

### Section 11.3.2.E

- E. If the employee is still unable to return to duty after exhausting paid industrial accident or illness leave, the employee shall be placed on paid sick leave. Accumulated illness leave will be reduced only in the amount necessary to provide a full daily wage or salary, as indicated in the employee's assignment, when added to temporary disability benefits as specified under Labor Code Sections 4453 and 4460.
- F. After all paid illness leave has been exhausted following a paid industrial accident or illness leave, an employee shall be placed on verified illness leave and the employee shall utilize accrued vacation, earned compensatory time, or other earned leave to the extent necessary to make up the employee's full salary when combined with temporary disability benefits as specified under Labor Code Sections 4453 and 4460.
- G. An employee shall be permitted to return to service after an industrial accident or illness only upon presentation of a release from the District appointed physician and the licensed treating physician or practitioner. The physicians shall certify that the employee is able to return to his/her position without detriment to his/her emotional and physical well-being or the emotional and physical well-being of other employees.
- H. Upon return to service from any paid or unpaid leave resulting from an industrial accident or industrial illness, an employee shall be assigned to a position in his/her former class ahead of any employee with a lesser amount of seniority. If no vacancy exists in his/her former class, he/she may displace the most recently appointed employee in the class with less seniority. If an employee's former class has been abolished, the employee may be reassigned or placed on an appropriate reemployment list.
- I. An employee returning from paid or unpaid leave of absence shall not have any loss or gain in status or benefits other than that which is specifically provided in applicable provisions of the Education Code and Personnel Commission rules. An employee shall continue to receive appropriate seniority credit while on paid industrial accident or illness leave of absence.

## Section 11.3.2.J

- J. When all paid or unpaid leaves of absence have been exhausted following an industrial accident or industrial illness and the employee is unable to return to work, the employee's name shall be placed on the reemployment list for the class from which he/she was on leave for a period not to exceed 39 months.
- K. An employee receiving benefits under this Rule who fails to accept an appropriate assignment after being medically approved to return to work shall be removed from the reemployment list. Appropriate assignment is defined as an assignment to the employee's former class, in his/her former status and time basis, and in assignment areas in which the employee has made himself/herself available. An employee removed from a reemployment list under this Rule may appeal the removal to the Personnel Commission.
- L. While an employee is on any paid leave resulting from an industrial accident or industrial illness, the employee's salary paid by the District shall when added to a normal temporary disability allowance as specified under Labor Code Sections 4453 and 4460, not exceed the employee's regular salary. A permanent employee's salary is computed on the basis of the number of hours and days in his/her basic daily assignment. An employee who is not full time shall have his/her regular salary computed on the basis of the average number of hours worked each month in which the employee was in paid status during the preceding year. During all paid leaves from an industrial accident or industrial illness, the employee shall endorse to the District wage loss benefit checks received from the District's claims management firm, if applicable. The District shall issue to the employee appropriate warrants for payment of wages, loss of benefits, salary, and/or leave benefits and shall deduct normal retirement and other authorized contributions. An employee receiving benefits under this Rule who accepts employment during the period of leave shall be deemed to have abandoned his/her position. See Rule 14.1.4.

Section 11.3.2.M

- M. The Final Award for permanent industrial disability settlement shall not be subject to remittance to the District under this Rule.
- N. The reassignment of an employee who incurs a permanent disability shall be processed according to Rule 9.8.

11.3.3

VERIFIED ILLNESS LEAVE (EXTENDED SICK LEAVE)  
(EDUCATION CODE SECTION 88196)

- A. When a regular employee has exhausted all accumulated sick leave credit and the employee continues to be unable to resume the regular duties of his/her position due to illness or injury, the employee may request to be placed on verified illness leave or on unpaid illness leave.
- B. Within five (5) working days after the employee is first absent due to the illness or injury, the employee shall submit a request accompanied by a medical verification from a licensed physician or practitioner stating the nature of the illness or injury, the dates the employee has been under care and treatment and the expected date of return of the employee.
- C. Verified illness leave shall be limited to five (5) calendar months per fiscal year (108 days) and shall be subject to the following procedures:
  - 1. The employee's pay shall be his/her regular rate of pay less the amount actually paid to the substitute.
  - 2. If no substitute is hired, the employee shall receive full pay.
  - 3. For purposes of the Rule, a substitute shall be defined as the new employee hired due to the absence of the regular employee. A temporary upgrade of an existing employee shall not be counted for difference pay.
- D. The leave shall commence on the first day of illness or injury and shall run concurrent with all other leaves listed in the paragraph below.
- E. In order to be eligible for verified illness leave, the employee shall utilize available leave in the following order:
  - 1. All industrial accident or illness leave, when applicable.
  - 2. All current year credited sick leave.
  - 3. All accumulated sick leave.
  - 4. All accumulated compensatory time.
  - 5. All earned vacation.



11.3.4

UNPAID ILLNESS LEAVE (EDUCATION CODE SECTION 88195)

- A. A permanent classified employee, who has exhausted all entitlement to sick leave, vacation, compensatory time, or any other available paid leave, and who is absent because of non-industrial illness or injury may be granted an additional unpaid leave of absence for six (6) months, which may be extended for two additional six (6) month periods upon recommendation of the department supervisor, the Personnel Administrator and the approval of the Board of Trustees. In granting the leave, the following factors shall be considered:
1. The likelihood that the employee can return to normal duties upon completion of the leave of absence as evidenced by the treating doctor's prognosis.
  2. The seniority and the work record of the employee as documented in the official District personnel file.
  3. The employee's previous sick leave record and the degree and reasons for use of sick leave.
  4. The number of positions in the employee's classification, the uniqueness of duties performed by the employee, and availability of a substitute.
- B. The granting of a leave of absence, under this Rule, shall guarantee the employee the right to return to a position in his/her former class with equal rights and benefits.
- C. An employee may return from the leave of absence, upon adequate and proper notice as provided in Rule 11.3.5.
- D. An illness leave of absence without pay shall not constitute a break in service. Upon return the employee shall be reinstated to all rights and benefits of a regular employee.

11.3.5

RETURN FROM SICK LEAVE

- A. When an employee, who has been placed on paid or unpaid leave of absence due to illness for a duration of five (5) consecutive working days or more, wishes to return to work, the employee must submit a medical release from his/her licensed treating physician or practitioner. The release must provide medical verification acceptable to the District indicating that the employee has recovered sufficiently to return to his/her regularly assigned duties without detriment to his/her physical or emotional well-being, or the physical or emotional well-being of other employees. Clearance to return to work is subject to approval by the College physician, the Personnel Director and in the case of industrial injury or illness, the Director of Administrative Services.
- B. The employee shall give the Classified Personnel Department and his/her immediate supervisor adequate advance notification of his/her return.
- C. If, at the conclusion of all sick leave, paid or unpaid, granted under this Rule, the employee is still unable to resume the regular duties of his/her position, the employee shall be placed on a reemployment list for a period of 39 months in the same manner as if the employee were laid off for lack of work or lack of funds.

11.3.6

APPLICATION OF SICK LEAVE PROVISIONS TO UNIT MEMBERS

- A. Sick leave provisions for unit members shall be in accordance with Article 7 of the Agreement between the Santa Monica Community College District and Chapter 36, CSEA and this Rule, unless the Rule provision is specifically limited to management and confidential employees.

Rule 11.4

BEREAVEMENT LEAVE (EDUCATION CODE SECTION 88194)

Bereavement Leave provisions for unit members are contained in Article 7 of the District/CSEA Contract.

11.4.1

GENERAL PROVISIONS

- A. Every person employed in the classified service shall be granted necessary leave of absence with pay for not more than three (3) working days, or not more than five (5) working days if out of state or more than 300 miles of travel is required on account of the death of any member of the immediate family.
- B. Leave of absence for bereavement shall not be deducted from the sick leave bank or any other leave entitlement of the employee provided by the Education Code or these rules.

11.4.2

IMMEDIATE FAMILY DEFINED

- A. A member of the immediate family means the mother, father, grandparent or grandchild of the employee or the spouse of the employee; the spouse, the son, the daughter, foster or adopted child, the son-in-law or daughter-in-law, brother or sister, brother-in-law, sister-in-law, of the employee or the spouse of the employee, or any person living in the immediate household of the employee.

11.4.3

BEREAVEMENT LEAVE FOR OTHER THAN IMMEDIATE FAMILY MEMBERS

- A. Bereavement leave for other than immediate family members shall be charged to personal necessity leave as provided in Rule 11.5.

11.4.4

APPLICATION OF BEREAVEMENT LEAVE PROVISIONS TO UNIT MEMBERS

- A. Bereavement leave provisions for unit members shall be in accordance with Article 7 of the Agreement between the Santa Monica Community College District and Chapter 36, CSEA and this Rule unless the Rule provision is limited to management and confidential employees.

Rule 11.5

PERSONAL NECESSITY LEAVE (EDUCATION CODE SECTION 88207)

Personal necessity leave provisions for unit members are contained in Article 7 of the District/CSEA Contract.

11.5.1

GENERAL PROVISIONS

- A. A regular classified employee may elect to use six (6) days of regular sick leave in a fiscal year, as provided in Education Code Section 88191, for personal necessities which fall in the following categories:
1. Bereavement leave for immediate family members which is required over and above the leave authorized in Rule 11.4.
  2. Incapacitating illness of a member of the immediate family.
  3. Accident involving the person or property of the employee or a member of his/her immediate family.
  4. Appearance in court or before any administrative tribunal as a litigant or party.
  5. Other appropriate and compelling reasons as approved by the District Personnel Administrator.

## Section 11.5.1.B

- B. A maximum of three (3) days of personal necessity leave specified above may be used in a fiscal year at the employee's election for any one or a combination of the following reasons:
1. Bereavement leave for other than family members (example: aunt, uncle, nephew, etc.) as authorized in Rule 11.4.
  2. Paternity leave at the time of the birth or adoption of the child.
  3. Observance of major religious holidays of the employee's faith.
  4. Natural disaster such as earthquake, flood, or fire of a serious nature which requires the absence of the employee during his/her regular working days.
- C. Immediate family as used in this section shall have the same meaning as provided in Rule 11.4.

## 11.5.2

### APPLICATION OF PERSONAL NECESSITY LEAVE PROVISIONS TO UNIT MEMBERS

- A. Personal necessity leave provisions for unit members shall be in accordance with the provisions of Article 7 of the Agreement between Santa Monica Community College District and Chapter 36, CSEA and this Rule unless the Rule provision is limited to management and confidential employees.

Rule 11.6

MATERNITY LEAVE (EDUCATION CODE SECTION 88193)

Maternity leave provisions for unit members are contained in Article 7 of the District/CSEA Contract.

11.6.1

GENERAL PROVISIONS

- A. Every female classified employee who must be absent from her regular duties because of pregnancy or convalescence following childbirth shall be entitled to utilize all regular and extended sick leave benefits to which she may be entitled under Rule 11.3.
- B. Paid leave benefits, including regular sick leave and extended sick leave benefits may be used for the period of absence medically certified by the employee's attending physician and approved by the District's physician.
- C. Prior to the eighth month of pregnancy, the employee shall furnish the Classified Personnel Department with a medical certificate of the last date on which she will be able to work, accompanied by a completed and signed Absence Report listing the dates on which the employee will be absent.
- D. Prior to returning to service, the employee must present a certificate to the Classified Personnel Department from her physician certifying that she is able to resume the regular duties of her position and be approved by the District physician to return to work.

11.6.2

APPLICATION OF MATERNITY LEAVE PROVISIONS TO UNIT MEMBERS

- A. Maternity leave provisions for unit members shall in accordance with the provisions of Article 7 of the Agreement between Santa Monica Community College District and Chapter 36, CSEA and this Rule unless the Rule provision is limited to management and confidential employees.

Rule 11.7

UNPAID CHILD REARING LEAVE

11.7.1

GENERAL PROVISIONS

- A. A permanent classified employee who is the natural or adoptive parent of a child shall be entitled to an unpaid leave of absence for the purpose of rearing his/her child immediately after the birth of the child or completion of appropriate adoption procedures. Such leave shall be for a maximum period of nine (9) months and shall be granted provided that the employee submits a leave request to the Classified Personnel Department at least four (4) weeks prior to the anticipated date on which the leave is to commence.

11.7.2

APPLICATION OF UNPAID CHILD REARING LEAVE PROVISIONS TO UNIT MEMBERS

- A. Unpaid child rearing leave provisions for unit members shall be in accordance with the provisions of Article 7 of the Agreement between Santa Monica Community College District and Chapter 36, CSEA and this Rule unless the Rule provision is limited to management and confidential employees.

Rule 11.8

JURY DUTY AND COURT WITNESS LEAVES

Jury duty and court witness leave provisions for unit members are contained in Article 7 of the District/CSEA Contract.

11.8.1

JURY DUTY LEAVE (EDUCATION CODE SECTIONS 87035, 87036)

- A. Every regular classified employee shall be entitled to leave with full pay for any time he/she is required to perform jury duty service or appear as a witness in a local, state or federal court. Leave shall be granted for the entire period of jury service or the number of days the employee is required to be in attendance in court as a witness. The employee shall receive full pay provided that:
1. The per diem jury service or court witness fee is endorsed to the District for any day on which the employee receives jury duty leave.
  2. The summons for jury service is presented to the supervisor and the Classified Personnel Department at least one week before the first date of jury service.
  3. The subpoena to appear as a witness shall be presented to the immediate supervisor and the Classified Personnel Department as soon as possible but no later than the working day after it is served.
  4. The employee files an Absence Report form and a certification of attendance from the court in the Payroll Department.
  5. The employee shall be entitled to any meal, parking, and transportation allowances provided by the court.
- B. It is unlawful for any manager of the District to encourage an employee to seek exemption from jury duty or to discriminate against any employee with respect to assignment, employment, promotion, or in any other manner because of his/her service on a jury panel.



## Section 11.8.1.C

- C. Notwithstanding the provisions of part B, a supervisor may request a postponement of jury service to accommodate the specific needs of his/her department.
- D. Every employee shall be required to return to duty on any day on which he/she is released from jury service or court appearance by noon.
- E. Evening and night shift employees shall be released from duty on any day on which they are required to serve all or part of the day for jury service.
- F. Court witness leave shall not be granted if the employee is required to appear in court as a litigant, in which case, the employee shall have the option to utilize personal necessity leave as provided in Rule 11.5.

## 11.8.2

### APPLICATION OF JURY DUTY AND COURT WITNESS LEAVE PROVISIONS TO UNIT MEMBERS

- A. Jury duty and court witness leave provisions for unit members shall be in accordance with the provisions of Article 7 of the Agreement between Santa Monica Community College District and Chapter 36, CSEA and this Rule unless the Rule provision is limited to management and confidential employees.

Rule 11.9

MILITARY LEAVE (Military and Veteran's Code 389, 395, 395.1, 395.3)

Military leave provisions for unit members are contained in Article 7 of the District/CSEA Contract.

11.9.1

GENERAL PROVISIONS

- A. Classified employees, under official orders, who are called to duty or who volunteer in the Armed Services of the United States shall be granted military leave of absence for the period of the required service or enlistment.
  - 1. Employees who have served one or more years in the District shall be granted up to 30 calendar days of paid leave in one fiscal year.
  - 2. Employees who have not served one year in the District shall be granted leave without pay.
  - 3. The employee's salary advancement shall not be interrupted by military leave and he/she shall continue to accrue seniority for purposes of layoff due to lack of work, lack of funds or abolishment of position, and for longevity and vacation entitlement; however, no other fringe benefits such as sick leave or vacation shall accrue during any unpaid portions of the absence.
  
- B. Classified employees who are members of reserve corps, and who must temporarily be absent due to active military training or exercises shall be granted temporary military leave of absence not to exceed 180 calendar days.
  - 1. Employees who have been in the service of the District for one or more years shall be granted leave with the first 30 calendar days of full pay and they shall not suffer loss of benefits of any kind, nor shall they lose any rights granted other employees due to their absence.
  - 2. Employees who have not been in the service of the District for one year shall be granted leave without pay.

Section 11.9.1.C.

- C. In order for a Leave of Absence to be granted, the employee must submit official orders stating the date he/she must report for duty at least one week before the duty commences.
- D. Upon return from temporary military leave the employee shall be reinstated into his/her regular position and upon honorable discharge from regular active duty the employee shall be reinstated into his/her same position or an equal position in the same class as specified in Military and Veteran's Code 395.1.
- E. An employee shall return to his/her position in the District within six (6) months of separation for military service or as otherwise provided in Military and Veteran's Code 395.1.

11.9.2

APPLICATION OF MILITARY LEAVE PROVISIONS TO  
UNIT MEMBERS

- A. Military leave provisions for unit members shall be in accordance with the provisions of Article 7 of the Agreement between Santa Monica Community College District and Chapter 36, CSEA and this Rule unless the Rule provision is limited to management and confidential employees.

Rule 11.10

MISCELLANEOUS LEAVES

11.10.1

LEAVE OF ABSENCE DUE TO  
EPIDEMIC/QUARANTINE/NATURAL DISASTER

- A. Every regular classified employee shall be allowed a leave of absence from duty with full pay on any day on which his/her regular place of employment is closed because of quarantine, epidemic, natural disaster or other conditions involving the health or safety of college staff or students, provided that:
1. The employee cannot be reassigned to an alternate work location to perform his/her regular duties or other suitable duties.
  2. The employee is ready, willing, and able to report for duty.
  3. This leave shall continue until the Board of Trustees has taken action to permanently establish the status of the affected employees.

11.10.2

LEAVE TO VOTE (ELECTIONS CODE 14350-52)

- A. Every classified employee shall be allowed time off with pay to vote in general, direct primary or presidential primary elections, subject to the following conditions:
1. The employee's regular scheduled work hours would make it impossible for the employee to reach his/her polling place to vote outside of working hours.
  2. The time off shall be only that time that is necessary and in no case shall exceed two hours per general or primary election.
  3. The time off shall be taken at the beginning or end of the work shift assignment whichever, as determined by his/her supervisor, allows the employee the most free time to vote.
  4. The employee must submit a written request certifying the need for time off at least two (2) working days before the election day on which he/she is to be absent.

11.10.3

RELEASE TIME FOR EXAMINATIONS AND OTHER  
PERSONNEL ACTIONS

- A. Each classified employee shall be permitted time off from duty without deduction of pay or penalty as needed for the following reasons:
  - 1. To take an examination or interview for promotion or transfer in the District.
  - 2. To attend a Personnel Commission meeting at which a recommendation affecting the employee's classification, salary or employment status is being presented.
- B. Evening and night shift employees who are scheduled for examination or interview during off-duty hours before or after their regular shift on a scheduled working day shall be permitted equivalent release time, when requested by the employee to prepare for the examination or interview.

11.10.4

LEAVE OF ABSENCE TO SERVE IN AN EXEMPT,  
TEMPORARY, OR LIMITED-TERM POSITION

- A. Any permanent classified employee may accept an assignment to an exempt (non-merit), temporary or limited-term position without loss of status in his/her position and classification or entitlement to benefits.
- B. The employee may voluntarily return to his/her former position at any time prior to the completion of service in the exempt, temporary or limited-term position with the approval of the supervisors affected.

11.10.5

SICK LEAVE FOR TEMPORARY EMPLOYEES  
(LABOR CODE SECTION 246).

- A. This rule shall apply to any employee not covered by other provisions of this Chapter governing sick leave.
- B. An employee who, on or after July 1, 2015, works 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this rule.

Section 11.10.5.C.

- C. An employee shall accrue paid sick days at the rate of one hour per every 30 hours worked from the commencement of employment or July 1, 2015, whichever is later. No employee shall be allowed to have an accrual of more than 48 hours of sick leave.
- D. An employee shall be entitled to use accrued paid sick days beginning on the 90<sup>th</sup> day of employment, after which day the employee may use paid sick days as they are accrued.
- E. Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes: (1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. (2) For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1 of the Labor Code.
- F. No compensation shall be paid to an employee for accrued, unused paid sick days upon termination, resignation, retirement, or other separation from employment.
- G. If an employee separates and is rehired within one year from the date of separation, previously accrued and unused paid sick days shall be reinstated. The employee shall be entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehiring.

Rule 11.11

SPECIAL LEAVES OF ABSENCE FOR MANAGEMENT  
AND CONFIDENTIAL EMPLOYEES

11.11.1

CASUAL ABSENCE LEAVE

- A. Regular management and confidential classified employees may utilize up to a one-half (1/2) day of leave per month without loss of pay to attend to personal business situations that the employee could not be expected to disregard.
- B. Casual absence leave may not be accumulated from month to month and is intended to supplement other available leave.
- C. Casual absence leave may be taken only with the approval of the immediate supervisor.

11.11.2

CONVENTION ATTENDANCE

- A. A regular employee shall receive release time without loss of pay to attend conventions, workshops, seminars or professional business meetings related to the employee's job and approved by the District.

Rule 11.12

TRANSFER OF SICK LEAVE AND OTHER BENEFITS  
FROM ANOTHER DISTRICT (EDUCATION CODE  
SECTION 88202)

11.12.1

GENERAL PROVISIONS

- A. Any classified employee who is employed by the District shall be entitled to transfer all accumulated sick leave and a classified management employee shall be entitled to transfer longevity credit for purposes of vacation and longevity increment eligibility on a year for year basis under the following circumstances:
1. The employee was employed for a period of one year or more in a school district, or county community college district or county superintendent of schools, or accredited 4 year institution of higher education.
  2. The employee separated from the previous District in good standing (voluntary resignation or layoff) and he/she was not dismissed for cause.
  3. The employee is employed by the District within one year of separation from the previous District.
  4. The maximum length of service credit allowed for a new management employee shall be 4 years of credit for 4 years of service.
  5. Length of service credit provided under this Rule shall not count toward seniority credit for purposes of layoff or reduction in assigned time.
- B. The length of service credit provisions of this Rule shall become effective on 7/1/83.

11.12.2

APPLICATION OF TRANSFER OF SICK LEAVE  
PROVISIONS TO UNIT MEMBERS

- A. The transfer of sick leave provisions of this Rule shall apply to unit members unless a Rule provision is specifically limited to management or confidential employees.



Rule 11.13

UNPAID LEAVE OF ABSENCE

Unpaid leave of absence provisions for unit members are contained in Article 7 of the District/CSEA Contract.

11.13.1

GENERAL PROVISIONS

- A. A regular classified employee may be granted a personal leave of absence without pay for a period not to exceed 30 days, upon written request by the employee, recommendation of the immediate supervisor and approval of the District Personnel Administrator.
- B. A permanent classified employee may be granted an unpaid personal leave of absence for a period not to exceed one year upon written request of the employee and approval of the Board of Trustees, for any of the following reasons:
  - 1. Rest and recuperation required to maintain the employee's well-being.
  - 2. Educational improvement by enrollment at a college, university or vocational/trade school.
  - 3. Study and travel which will contribute to the employee's professional development.
  - 4. Opportunity leave for the purpose of reassignment to a position with another employer or self-employment which will contribute to the employee's professional development.
  - 5. Care of a family member or relative due to illness.
  - 6. Other appropriate reasons as determined by the District Personnel Administrator.
- C. Every request for personal leave of absence without pay shall, except under extenuating circumstances, be submitted to the District Personnel Administrator at least 30 calendar days prior to the commencement of the leave.

## Section 11.13.1.D

- D. For leaves of absence requiring Board approval the District Personnel Administrator shall present a recommendation for approval or disapproval at the next meeting of the Board of Trustees.
- E. The recommendation shall be based on the following factors:
  - 1. The likelihood that the employee can return after completion of the leave of absence.
  - 2. The seniority and work record of the employee as documented in the employee's official personnel file.
  - 3. The number of positions in the employee's classification, the uniqueness of duties performed by the employee, and the availability of a substitute.
- F. The Governing Board, for good cause, may cancel an unpaid leave of absence by giving the absent employee a minimum two (2) week notification of the cancellation of the leave. The employee may appeal the cancellation to the Personnel Commission who shall investigate and hear the appeal. The appeal shall stay the action of the Board of Trustees until the Personnel Commission has issued a determination, which shall be final and binding.
- G. An employee may make a written request to the Governing Board to return to work prior to the expiration date of the leave. The Governing Board may approve or reject the request at its discretion.
- H. Failure to report for duty within five (5) working days after a leave has been canceled or expires shall be considered abandonment of the position. Termination may be appealed to the Personnel Commission in the same manner as any other dismissal for cause. This provision is not applicable to military leave.
- I. An employee on an unpaid leave of absence may continue to participate in the District health and welfare benefits, as provided by the insurance carrier, at his/her option, however, the employee must pay the entire premium.

11.13.2

APPLICATION OF UNPAID LEAVE OF ABSENCE  
PROCEDURES TO UNIT MEMBERS

- A. Unpaid leave of absence provisions for unit members shall be in accordance with Article 7 of the Agreement between the Santa Monica Community College District and Chapter 36, CSEA and this Rule, unless the Rule provision is limited to management and confidential employees.

Rule 11.14

HOLIDAY PAY (EDUCATION CODE SECTIONS 88203, 88205, 88205.5, 88206, 79020, 79022.1318)

Paid holiday provisions for unit members are contained in Article 8 of the District/CSEA Contract.

11.14.1

PAID HOLIDAYS

A. All regular classified employees shall be entitled to the following paid holidays, which occur during their assigned work years, subject to the provisions of Rule 11.4.2.

1. Legal Holidays

July 4

The first Monday in September - Labor Day

\*September 9 - Admissions Day

\*November 11 - Veterans' Day

Thanksgiving Day

December 25

January 1

The third Monday in January - Martin Luther King Day

\*February 12 - Lincoln's Day

\*The third Monday in February - President's Day

\*The last Monday in May - Memorial Day

2. Board Approved Holidays

In addition to the legal holidays listed above, all regular classified employees shall be granted five additional paid holidays as designated on the official District calendar adopted each year prior to the beginning of the fiscal year.

3. Specially Declared Holidays

Regular classified employees shall also be entitled to pay for all other holidays appointed by the President or the Governor of this State or the Governing Board as provided in Education Code Sections 79020, 79022 or 1318.

Section 11.14.1.B

- B. The District may designate other days during the year as holidays in lieu of any of the holidays marked with an asterisk (\*) in Part A-1 of the Rule, provided that:
  - 1. The in-lieu holidays are scheduled in such a way as to provide for at least a 3-day weekend.
  - 2. The in-lieu holidays are designated prior to the beginning of the fiscal year.
- C. Pay for the holiday shall be the same pay that the employee would have received had the day not been a holiday.
- D. Regular classified employees who have voluntarily selected a work pattern of a 10 hour day/40 hour workweek or a 9 hour day/80 hour biweekly workweek shall receive pay for eight hours on the holiday and shall be required to utilize vacation leave or compensatory time for the remaining hours of the work day.
- E. Regular classified employees who are required to work on a holiday shall be paid:
  - 1. At their regular overtime rate (time and one-half) for all hours worked on the holiday, and;
  - 2. The regular pay for the holiday.

The total pay shall equal double time and one-half.

11.14.2

ELIGIBILITY FOR HOLIDAY PAY

- A. To be eligible for holiday pay, a regular employee must be in paid status during some portion of the working day before or the working day after the holiday.
- B. Provisional, limited-term, temporary and substitute employees and employees hired for exclusive weekend or holiday work under Rule 3.1.8 shall not be eligible for holiday pay.
- C. When a holiday falls on Saturday, the holiday shall be observed on the preceding Friday. When the holiday falls on Sunday, the holiday shall be observed on the following Monday.
- D. A regular classified employee who is assigned to a workweek other than Monday through Friday shall be provided a substitute holiday whenever the regular holiday falls on a day on which he/she is not assigned to work.
- E. A regular employee who is not assigned to duty during the college recess which includes December 25 and January 1, shall nevertheless be paid for the holidays which occur during this period if he/she is in paid status during any portion of the working day of his/her regular assignment which precedes or follows the recess.

11.14.3

APPLICATION OF HOLIDAY PAY PROVISIONS TO UNIT MEMBERS

- A. Holiday pay provisions for unit members shall be in accordance with Article 8 of the Agreement between the Santa Monica Community College District and Chapter 36, CSEA and this Rule, unless the Rule provision is limited to management and confidential employees.

PERSONNEL COMMISSION

SANTA MONICA COLLEGE

MERIT RULES CHAPTER XII

Rule Revision 12.2.5 and 12.2.8 Approved by the Personnel Commission on April 15, 2015

Rule Revision 12.2.4 Approved by the Personnel Commission on November 18, 2015





Section	12.4.1	Health and Welfare Benefits
	12.4.2	Mileage Reimbursement
	12.4.3	Uniform Allowance (Education Code Section 88037)
	12.4.4	Application of Benefit Provisions to Unit Members

## CHAPTER XII

### SALARIES, OVERTIME PAY AND BENEFITS

Rule 12.1

DETERMINATION OF SALARY SCHEDULES  
(EDUCATION CODE SECTIONS 88061, 88160 – 88163)

12.1.1

FIXING ANNUAL SALARY SCHEDULES

- A. The Governing Board shall fix the annual salaries for all classified employees for each ensuing year no later than the date prescribed by law.
- B. The Board may increase the salary schedule for classified employees at any time during the fiscal year, including increases to the salaries of employees resulting from the reclassification of a position, class of positions, or group of classes approved by the Personnel Commission.
- C. The provisions of this section shall not be construed to permit the Board to demote or dismiss an employee due to the reclassification of a position or class of positions, unless otherwise authorized by law or these rules.
- D. If the Governing Board is unable to comply with the provisions of paragraph A above, because of collective bargaining negotiations or because a salary study is being conducted, the board may, prior to the final adoption of the budget:
  - 1. Reserve the right to adjust salaries upon completion of the study and/or negotiations, or
  - 2. Adopt an interim salary schedule as provided in Education Code Section 88163.
- E. The Governing Board shall employ, pay and otherwise control the services of classified employees only in accordance with the provisions of Title 3, Division 7, Chapter 4, Article 3 (Merit System) of the Education Code of the State of California and applicable provisions of these rules.

12.1.2

FACTORS IN SALARY DETERMINATION

- A. The Personnel Director shall prepare recommendations for the allocation of classes to salary ranges for approval by the Personnel Commission. These recommendations shall take into account the following factors:
1. Wages and salaries paid for similar work in private industry in the recruitment area.
  2. Wages and salaries paid by other governmental agencies in the recruitment area.
  3. The principle of like pay for like work within the classified service.
  4. Appropriate differentials between related classes to reflect differences in duties and responsibilities, as established in the classification plan, and
  5. Such other information as the Personnel Commission may require.

12.1.3

SALARY STUDIES

- A. The Personnel Director shall conduct or, with the approval of the Personnel Commission, cause to be conducted a salary study:
1. Whenever a new class is created.
  2. When directed by the Personnel Commission.
- B. A salary study shall consist of a review of internal relationships with other related classes and may include a salary survey of private industry and public sector pay rates for comparable classes.
- C. The Personnel Director shall work cooperatively with the Administration and employee organizations, while conducting salary studies, in an effort to ameliorate significant differences before recommendations are submitted to the Personnel Commission.

12.1.4

SALARY RECOMMENDATIONS (EDUCATION CODE SECTION 88087)

- A. After making its findings, the Personnel Commission shall present salary recommendations to the Board for approval. The Board may approve, amend or reject the recommendation but not alter the percentage relationships among classes in the occupational family as established by the classification plan. No amendment shall be adopted until the Personnel Commission is first given a reasonable opportunity to comment on the effect the amendments will have on the principle of like pay for like work. No changes shall be adopted which disturb the percentage relationship among classes in the occupational family as established by the Personnel Commission.
- B. Salary recommendations shall be based on evidence that the class in question is substantially overpaid or underpaid as substantiated by a survey of relative community rates or the internal alignment of a class with other classes.
- C. Salary adjustments may also be made when a classification study indicates that changes in duties and responsibilities require such a change.

Rule 12.2

GENERAL SALARY PROVISIONS

Salary provisions for unit members are contained in Article 11 of the District/CSEA Contract.

12.2.1

INTERPRETATION OF THE SALARY SCHEDULE

- A. The schedule of pay for each class represents the standard rate of pay for full-time employment, unless in the pay schedule it is specifically indicated that the rate is for part-time service.
- B. The rates of pay as set forth in the pay schedules do not include reimbursements for actual and necessary expenses for traveling, subsistence, car mileage, and similar purposes authorized and incurred as part of the employment.

12.2.2

TIME FOR PAYMENT (EDUCATION CODE SECTION 85244 )

- A. Payroll orders for the payment of wages shall be made to all regular classified employees twice during each calendar month.
  - 1. Work performed between the 1st and 15th days of the month shall be paid for on the 25th of the month.
  - 2. Work performed between the 16th and the last day of the month, inclusive, shall be paid for on the 10th of the month.
  - 3. Whenever the 10th or 25th falls on a weekend or holiday payroll checks shall be issued on the preceding workday.

12.2.3

CORRECTION OF ERROR IN SALARY (EDUCATION CODE SECTION 88166, CODE OF CIVIL PROCEDURE 338)

- A. Whenever it is determined that an error has been made in the calculation or reporting in any classified employee's payroll or in the payment of any classified employee's salary, the appointing authority shall, within five working days following such determination:
  - 1. Provide the employee with a statement of correction.
  - 2. Issue a supplemental payment to cover the entire underpayment against any available funds where the employee has been underpaid.
  - 3. Make equitable arrangement for repayment where the employee has been overpaid.
  
- B. The correction of errors made in the calculation, reporting, or in the payment of any classified employee's salary shall be limited to the three year period preceding the date a claim is filed, or the error is discovered.

12.2.4

SALARY ON EMPLOYMENT

- A. All new employees shall be appointed at the hiring rate for the class as approved by the Personnel Commission. The hiring rate shall be the first step of the schedule except for classes where recruitment efforts have indicated difficulty in recruiting at that step. An accelerated hiring rate may be set with the approval of the Board and the Personnel Commission at any step of the schedule of the class. If an accelerated hiring rate is approved, all current employees in the class shall be advanced to that rate and shall begin a new cycle of step advancement.
  
- B. An employee may be granted advanced placement on the salary schedule upon recommendation of the Personnel Director and approval of the Personnel Commission. The Personnel Director shall base his/her recommendation on a determination that advanced salary placement is necessitated due to labor market conditions or to properly compensate a new employee for previous training, experience, and qualifications which greatly exceed the minimum qualifications of the class as provided below:
  - 1. Placement at step B may be approved if the employee has had at least two (2) additional years of training and experience beyond the class qualifications successfully performing substantially all the duties of the class.
  
  - 2. Placement at step C may be approved if the employee has had at least four (4) years of training and experience successfully performing substantially all the duties of the class.

Section 12.2.4.C

- C. The maximum initial salary placement is step C on the salary schedule. To qualify for advanced placement credit, the training and experience must be directly related to, and be at least at the same level as, the classification into which the employee is being hired.
  
- D. Advanced salary placement must be requested at the time of hire and is subject to receipt of written verification within the first two months of employment. Failure to receive the verification within the prescribed time deadline shall result in ineligibility for advanced salary placement.



12.2.5

SALARY INCREMENTS

- A. Upon completion of six months of satisfactory service, a regular classified employee initially hired at step A shall advance to step B on the appropriate range of the salary schedule.
- B. Notwithstanding the provisions of paragraph A, a new employee who has served continuously in limited-term or provisional status immediately prior to appointment to a regular position in the same class shall, for purposes of salary increment advancement, be credited back to the original date of hire in the class. The maximum amount of time which may be credited is six months.
- C. After receipt of the initial salary increment, each regular classified employee shall advance one step on the appropriate salary range upon completion of each year of continuous and satisfactory service until the maximum is reached:
  - 1. For purposes of this rule, a year shall be defined as the number of months in the employee's assignment during the college year.
  - 2. For purposes of this rule, an uncleared disciplinary action, a formal reprimand, or Unsatisfactory Work Performance Notice received in the preceding year shall disqualify an employee from receiving an increment as provided in Rule 12.2.7.
- D. A regular classified employee initially hired at step B or C shall advance to the next step on the appropriate range of the salary schedule upon satisfactory completion of one year of service.

12.2.6

SPECIAL SALARY INCREMENTS FOR MANAGEMENT  
AND CONFIDENTIAL EMPLOYEES

- A. A permanent classified management or confidential employee may be granted a special one-step salary increment in advance of the scheduled increment subject to the following conditions:
1. When the employee's supervisor wishes to request a special salary increment, he/she shall submit to the College Personnel Administrator a recommendation with documentation of outstanding and meritorious service in the improvement of the educational service to students or the administration of the District. The recommendation shall include a specific listing of the accomplishments and achievements of the employee which exceeds the performance standards of the class.
  2. The recommendation shall be submitted for approval by a District Personnel Committee which shall be composed of the District Personnel Administrator, the Personnel Director, the employee's supervisor, and one at-large employee.
  3. The recommended employee has not received a regular salary increment within the preceding six months.
  4. The employee shall be eligible for no more than one special one-step salary increment within a three and one-half year period.
  5. Upon receipt of a special salary increment, the employee salary increment anniversary date shall be adjusted and the date of the special increment shall become the employee's new increment date.

12.2.7

WITHHOLDING SALARY INCREMENTS

- A. A salary increment shall be withheld when an employee has received a Notice of Unsatisfactory Service, a formal reprimand or a Disciplinary Action Notice within the one year period preceding the due date for the increment, subject to the following conditions:
  - 1. The increment may be withheld for a maximum period of 90 working days.
  - 2. Upon clearance of the Unsatisfactory Notice, a formal reprimand or Disciplinary Action Notice by issuance of a Job Performance Progress Report by the employee's immediate supervisor, the increment shall be approved effective the first of the month following the filing of the clearance notice.
  
- B. Withholding of a salary increment for permanent employees shall be subject to appeal to the Personnel Commission as part of the appeal of disciplinary action.

12.2.8 SALARY ON PROMOTION

- A. When an employee is promoted to a position on a higher salary range, he/she shall receive at least a one step salary increase, but not less than the first step of the new salary range.
- B. If the amount is less than a one step salary increase, the employee shall be placed at the next higher step.
- C. After promotion, an employee shall advance one step on the salary schedule after completion of six months of satisfactory and continuous service in the new class. This shall become the employee's new increment anniversary date.
- D. Thereafter, salary increment advancement shall be in accordance with Rule 12.2.5.

12.2.9 SALARY ON DEMOTION

- A. An employee who accepts voluntary demotion due to the reclassification, reorganization, or abolishment of his/her position shall be Y-rated as provided in Rule 12.2.13.
- B. Effective, 08/01/91, an employee who accepts voluntary demotion for any reason other than disqualification from probationary status shall be Y-rated as provided in paragraph A above.
- C. If the employee is eligible for an increment in his/her own class at the time a voluntary demotion is taken, the employee shall be credited with the increase before salary adjustment is made.
- D. When an employee is involuntarily demoted during probation, as provided in Rule 9.3.2, salary placement shall be at the step of the lower salary range to which the employee would have progressed had the employee served continuously in the lower class. The employee's previous salary increment date shall be used to determine advancement on the salary schedule.
- E. When the demotion is due to a disciplinary action, the Disciplinary Action Notice shall specify the step of the salary range on which the employee shall be placed.

PC approved: 9-18-91

12.2.10

SALARY ON RECLASSIFICATION

- A. When an employee is reclassified with his/her position to a class with a higher salary range, the employee shall be placed on the same step on the higher range with the same increment date as held in the lower range.
- B. When an employee is ineligible for reclassification with his/her position but qualifies for the higher class through the appropriate examination process, the change of classification shall be treated as a promotion under Rule 12.2.8.
- C. When an employee remains assigned to a position which has been reclassified to a class on a lower salary range, the employee's salary shall be Y-rated as provided by Rules 3.3.4 and 12.2.13.

12.2.11

SALARY ON REALLOCATION

- A. When a class is reallocated to a higher salary range, all employees in the class shall be placed on the new salary range on the same step which they held prior to the reallocation. The employee's step placement and increment anniversary date shall not change.

12.2.12

SALARY ON TRANSFER

- A. When an employee is transferred from one position to another in the same class, or a related class on the same salary range, the employee's step placement and increment date shall not change.

12.2.13 Y-RATED SALARY

- A. A Y-rate shall be defined as a salary range, step or rate which is frozen because the salary amount is above the current approved rate.
- B. The Y-rate shall apply to a range, step, or rate on the salary schedule only. Off-schedule pay, including longevity increments and differentials, shall not be included in the Y-rated salary.
- C. A regular classified employee's payrate shall be Y-rated under the following circumstances:
  - 1. When the employee is demoted to a position in a lower salary range due to displacement, reclassification, or abolishment of his/her position, and the employee has been performing satisfactorily. See Rule 3.3.4.B.3.
  - 2. When an employee accepts a voluntary demotion for any reason other than disqualification for probationary or permanent status (effective 8/1/91). See Rule 12.2.9.
- D. A salary Y-rate shall terminate on the earlier of the following dates:
  - 1. The effective date on which an annual salary increase results in the Y-rated salary amount falling within the salary range of the class to which the employee and his/her position is allocated.
  - 2. The date the employee is eligible to return to a position in his/her former class and range/step placement.

12.2.14

SALARY ON RETURN FROM LEAVE OF ABSENCE,  
REEMPLOYMENT AND REINSTATEMENT

- A. An employee who returns from leave of absence, is reemployed in the same class within 39 months after layoff, or is reinstated into his/her former class within 39 months after resignation, shall be placed on the same step of the salary range for the class held prior to separation.
- B. Credit for step advancement shall accrue during the following leaves of absence:
  - 1. All paid leaves of absence including sick leave, verified illness leave, personal necessity, bereavement, jury duty, vacation, etc.
  - 2. For military service, paid or unpaid.
  - 3. To serve in limited-term assignments in the District.
  - 4. For industrial accident or injury leave, paid or unpaid.
- C. An employee who is reinstated or reemployed in a related lower class shall be placed on the step of the lower salary range which is closest to, but not higher than, the last step held prior to separation.
- D. An employee who is reinstated or reemployed in a limited-term position shall be placed on the same step of the appropriate salary range which he/she would receive had he/she been reinstated to a permanent position in the class.
- E. When an employee returns after leave of absence, or is reemployed after layoff, or reinstated after resignation within 39 months of the effective date of separation, he/she shall receive credit for step advancement for prior service and the employee's increment date shall be adjusted.



12.2.15

SHIFT DIFFERENTIAL PAY

- A. Shift differential pay shall be applicable to employees serving in regular positions, as follows:
1. Evening shift employees (NS1) who are permanently assigned to a shift requiring four (4) or more hours after 5:00 p.m. shall be paid a differential of two (2) ranges (approximately 5%) over the regular rate for daytime employees in the same class.
  2. Night shift employees (NS2) who are permanently assigned to a shift requiring four (4) or more hours after 12:00 midnight shall be paid a differential of four (4) ranges (approximately 10%) over the regular rate for daytime employees in the same class.
  3. Employees who are permanently assigned to a split-shift schedule which requires one or more unpaid periods exceeding a total of three (3) hours per day shall be paid a differential of two (2) ranges (approximately 5%) over the regular rate for regular employees in the same class.
  4. Employees who are permanently assigned to a rotating shift schedule which requires employees to rotate their work schedule among more than one shift shall be paid a differential of two (2) ranges (approximately 5%) over the rate for regular employees in the same class.
  5. Employees who are permanently assigned to a regular 40 hour workweek consisting of a work schedule other than Monday through Friday which requires a Saturday or Sunday shift shall be paid a differential of two (2) ranges (approximately 5%) over the rate for regular employees in the same class.

Section 12.2.15.B

- B. Employees who are assigned to evening and night-shift work on a continuous basis and are ordered to temporary daytime work, shall continue to receive their regular pay. However, on the 21st day the employee's pay shall be adjusted to the daytime schedule.
- C. Assignments to positions for which differential compensation is designated, other than temporary assignments (20 working days or less), shall be made on the basis of seniority among those employees within the appropriate class who request an assignment.
- D. To be eligible for shift differential pay, an employee shall serve more than two (2) evening, night, or split shifts per week. An employee shall be eligible to be paid for no more than one (1) shift differential under this rule. Where more than one shift differential can apply, the employee shall be paid at the higher differential rate.

12.2.16

LONGEVITY PAY

- A. Each regular classified employee shall receive a salary increment in addition to his/her regular salary in recognition of completion of satisfactory and continuous service to the District. The increment shall be equal to a two range increase (approximately 5%) after completion of:
1. Five years (Effective 7/1/80)
  2. Ten years (Effective 7/1/76)
  3. Fifteen years (Effective 3/1/64)
  4. Twenty years (Effective 7/1/81)
  5. Twenty-five years (Effective 10/1/77)
  6. Thirty years (Effective 7/1/78)

12.2.17

ADJUSTMENTS OF SERVICE CREDIT

- A. For purposes of salary increment and longevity computation, time in unpaid status, other than military or industrial injury leave, or recess periods which are part of an employee's work calendar, shall be deducted from the employee's accumulated service time. The employee's longevity and salary increment dates shall be adjusted accordingly.

12.2.18

EFFECTIVE DATE OF SALARY CHANGES

- A. All salary and longevity increments shall be effective on the first day of the calendar month as provided below:
1. When the actual date of the change falls on or before the 15th of the month, the salary change shall be effective on the first of the month.
  2. When the actual days of the changes falls after the 15th of the month, the change shall be effective on the first of the following month.

12.2.19

APPLICATION OF SALARY PROVISIONS TO UNIT MEMBERS

- A. The salary provisions for unit members shall be in accordance with Article 11 of the Agreements between the Santa Monica Community College District and Chapter 36, CSEA and this Rule, unless the Rule provision is specifically limited to management and confidential employees.

Rule 12.3

OVERTIME COMPENSATION (EDUCATION CODE SECTIONS 88027-88031, 88039)

Salary provisions for unit members are contained in Article 3 of the District/CSEA Contract.

12.3.1

OVERTIME DEFINED

- A. Overtime shall be defined as the authorized work time in excess of 40 hours in one calendar week and the authorized number of hours in an employee's approved workday pattern:
  - 1. More than eight (8) hours per day for employees in a calendar week.
  - 2. More than nine (9) hours per day for employees working 9 days, 80 hours in 2 calendar weeks.
  - 3. More than ten (10) hours per day for employees working four 10-hour days per calendar week.
- B. For purposes of determining overtime compensation, work time shall include:
  - 1. All actual hours worked.
  - 2. All hours of paid leave time including sick leave, vacation, holidays, compensatory time off, or any other paid leave.

12.3.2

OVERTIME COMPENSATION

- A. An employee who works authorized overtime as defined in Rule 12.3.1 shall be paid at the rate of one and one-half (1-1/2) times his/her regular rate of pay for all overtime hours worked. Compensation shall be in cash payment or, by mutual agreement, compensatory time.
  - 1. The employee's regular rate of pay shall include shift and special assignment differentials.
  - 2. The employee's regular rate of pay shall be the appropriate rate for the class in which the duties are performed.
- B. Overtime at the rate of one and one-half times his/her regular rate shall also be paid to a regular part-time employee as follows:
  - 1. An employee having an average workday of four (4) hours or more shall receive overtime compensation for any authorized work performed on the sixth and seventh consecutive day of work.
  - 2. As employee having an average workday of less than four (4) hours during the workweek, shall receive overtime compensation for any authorized work performed on the seventh consecutive day of work.
- C. When an employee is required to work on a paid District 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.
- D. The minimum authorized period which shall qualify for overtime pay is one-half (1/2) hour.

12.3.3

ASSIGNMENT OF OVERTIME

- A. Overtime work shall be assigned on a rotating seniority basis among all qualified employees who are in the same class, the same organizational unit, and at the same work location. If an employee chooses not to work the overtime assigned under this procedure, no punitive action shall be taken by the District or the immediate supervisor.
- B. If no employee in the class, organizational unit and work location accepts the overtime assignment using the rotating seniority process, the District may assign the overtime in reverse rotating seniority order.
- C. The following are allowable exceptions to the seniority overtime assignment process:
  - 1. When overtime is authorized for completion of a specific assignment, project, or work in progress, the employee who began the assignment, project or work may be assigned the overtime.
  - 2. When the District determines it is necessary to consider special skills and training of employees to perform particular work.
  - 3. When other employees who are not eligible for overtime are available to perform the duties the District shall not be required to assign overtime.

Revised first reading: 1/13/93

Presented for approval PC: 2/17/93

12.3.4

COMPENSATORY TIME (EDUCATION CODE SECTION 88028)

- A. Compensatory time off may be granted in lieu of cash payment for overtime hours worked by mutual agreement of the employee and of the department supervisor. The following provisions shall apply:
  - 1. A record of all compensatory time worked and taken for each employee shall be maintained in the time record of the department.
  - 2. Compensatory time may be taken as leave by the employee in lieu of any other authorized leave.
  - 3. Compensatory time shall be approved by the department supervisor before it is taken.
- B. Compensatory time shall be earned at the rate of one and one-half (1-1/2) hours for every 1 hour of overtime worked.
- C. Compensatory time may be accumulated for no more than 12 calendar months following the month in which the overtime was worked by any employee, provided that:
  - 1. An employee may retain a reasonable "bank" of compensatory time, which may not exceed 80 hours, at any time, for his/her use as authorized under this Rule.
  - 2. An employee shall be required to utilize any additional compensatory time beyond the 80 hours, within the month in which it is earned.
  - 3. When an employee transfers to a new department or a new assignment, compensatory time maintained in the employee's "bank" shall either be transferred with the employee or compensated in cash at the employee's current overtime rate as determined by the District.



4. All compensatory time accumulated in an employee's "bank" at the time of separation from the District shall be compensated in cash at the employee's current overtime rate.

12.3.5

OTHER OVERTIME PAY (CALL BACK, STAND-BY, EXTRA DUTY PAY AND OTHER OVERTIME PAY)

- A. Whenever an employee is required by the employee's supervisor to return to work after having departed from his/her work location after termination of his/her workshift (call back), the employee shall receive a minimum payment of two (2) hours at his/her regular or overtime rate, as appropriate.
- B. Whenever an employee is required by the employee's supervisor to report for work on a day on which he/she is not regularly scheduled to work (extra duty), the employee shall receive a minimum payment of two (2) hours at his/her overtime rate provided the employee was given at least five (5) working days advance notice. In the event the employee is not given the advance notice, the employee shall receive a minimum payment of four (4) hours at his/her overtime rate.
- C. Whenever an employee is required by the employee's supervisor to be on stand-by to report for a workshift on which he/she is not regularly scheduled, the employee shall receive a minimum payment of two (2) hours at his/her regular or overtime, as appropriate.
- D. If an employee works more than two (2) hours on call back or extra duty as provided above, the employee shall receive the appropriate pay for the actual hours worked.

12.3.6

EXEMPTION FROM OVERTIME PROVISIONS  
(EDUCATION CODE SECTIONS 88026, 88029)

- A. All positions/classes designated as executive, administrative, or supervisory by the Personnel Commission shall be exempted from the provision of these Rules.
- B. To be exempted from overtime provisions, all classes or positions must clearly be:
  - 1. Management positions in which the duties, authority, flexibility of hours, salary and benefit structure sets them apart from other positions or classes.
- C. Classes which are subject to fluctuations in daily working hours not subject to administrative control, such as police, security, or recreation but not food service or transportation, may be exempted from overtime provisions requiring payment of overtime for hours worked in excess of eight (8) in one day. For alternate work pattern assignments, this exemption shall apply to hours worked in excess of nine (9) hours in one day or ten (10) hours in one day, as appropriate.
- D. The Personnel Commission shall certify in writing that each position is properly exempted from the overtime provisions of Education Code Section 88027 and that the employees serving in such classes are not therefore unreasonably discriminated against.
- E. The list of designated management classes exempt from overtime provisions shall be maintained in the District's Management Salary Schedule.
- F. The list of classes designated as exempt from overtime compensation for hours worked in excess of eight (8) in one day shall be maintained in the Classified Personnel Office.

Section 12.3.6.G

- G. Notwithstanding the provisions of paragraph A of this Rule, if an exempted employee is required to work on a holiday, he/she shall be compensated at his/her regular rate of pay for the hours worked on the holiday or shall be granted an equal amount of compensatory time.
  
- H. Whenever a non-management employee is temporarily assigned to a designated management position for which he/she receives pay on the management salary schedule, the employee shall be ineligible for overtime pay for the entire period in which he/she serves in the management position.

12.3.7

APPLICATION OF OVERTIME COMPENSATION PROVISIONS TO UNIT MEMBERS

- A. Overtime compensation provisions for unit members shall be in accordance with Article 3 of the Agreements between the Santa Monica Community College District and Chapter 36, CSEA and this Rule, unless the Rule provision is specifically limited to management and confidential employees.

Rule 12.4

EMPLOYEE BENEFITS

Employee benefit provisions for unit members are contained in Article 12 of the District/CSEA Contract.

12.4.1

HEALTH AND WELFARE BENEFITS (GOVERNMENT CODE SECTION 53200)

- A. The Santa Monica Community College District shall provide a basic Health and Welfare Benefit Plan to all regular employees serving in positions assigned on a half time (20 hour) basis or more.
- B. The basic Health and Welfare Benefit shall be the amount approved by the Board of Trustees for the year.
- C. The basic Health and Welfare Benefit Plan shall provide for a contribution by the District for group medical insurance, dental insurance and vision coverage.
- D. Each regular eligible employee, shall select coverage from the group health insurance, dental program, and vision plan offered by the District within the first 30 days after initial employment. Thereafter, a covered employee may change plans or add eligible family members only during open enrollment periods.
- E. Employees who work five days per week, seven to eight hours per day, 35 to 40 hours per week, and who are employed for the academic year, or instructional year, shall be considered full-time employees for the purposes of this rule.

Section 12.4.1.F

- F. Employees who work less than 35 hours per week, but 20 or more hours per week, shall receive a prorata share of the amounts which are authorized for a full-time employee if they elect to be enrolled in a health, vision, and dental program. The proration shall be based on the number of hours worked as it bears to 40 and as the number of months worked bears to ten.
  - 1. Unit member employees who were employed for 20 hours per week or more prior to September 19, 1977, and who have been continuously employed, shall continue to receive full benefits.
- G. Employees who work less than 20 hours per week shall not be eligible for benefits enumerated in the Rule.
- H. The District shall provide the basic Health and Welfare Benefit Plan to retired annuitant employees of the District. The benefit plan shall provide the group medical, dental and vision care coverage for the employee and eligible dependents as defined by the insurance carrier. The amount of contribution shall be determined by the Board of Trustees.
- I. The District shall provide the supplemental retirement benefit to all retired employees who meet the eligibility requirements for the District's Classified Employees' Early Retirement Program.
- J. The District supplemental retirement benefit shall continue until the employee's 65th birthday or the employee's death, whichever occurs first. The supplemental benefit shall not be provided to the employee's estate or surviving dependents.

12.4.2 MILEAGE REIMBURSEMENT

- A. Any classified employee who is required by his/her supervisor to use his/her personal vehicle for college business shall be reimbursed for mileage at the rate approved by the Board of Trustees.
- B. Claims for mileage reimbursement shall be approved by the immediate supervisor and filed with the Business Services Department on the Mileage Reimbursement form at the close of each semester.

12.4.3 UNIFORM ALLOWANCE (EDUCATION CODE SECTION 88037)

- A. The District may require classified employees to wear a distinctive uniform. The cost of purchase, lease, rental, and maintenance of uniforms, and equipment, identification badges, emblems, and cards which are required by the District shall be paid for, or the cost shall be reimbursed to the employee, by the District.

12.4.4 APPLICATION OF BENEFIT PROVISIONS TO UNIT MEMBERS

- A. The benefit provisions for unit members shall be in accordance with Article 12 of the Agreements between the Santa Monica Community College District and Chapter 36, CSEA, and this Rule.



PERSONNEL COMMISSION

SANTA MONICA COLLEGE

MERIT RULES

CHAPTER XIII

Presented by the Personnel Commission for First Reading on May 5, 1993.

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Approved by the Personnel Commission on June 23, 1993.

**CHAPTER XIII -- SENIORITY, LAYOFF, DISPLACEMENT AND REEMPLOYMENT**  
**(EDUCATION CODE SECTIONS 88014, 88015, 88017, 88117)**

**Rule 13.1 SENIORITY PROVISIONS (EDUCATION CODE SECTION 88127)**

Section	13.1.1	Seniority Defined
	13.1.2	Computation of Seniority
	13.1.3	General Provisions
	13.1.4	Seniority Lists

**Rule 13.2 LAYOFF PROCEDURES (EDUCATION CODE SECTIONS 88127, 88017, 88117)**

Section	13.2.1	Procedures For Layoff of Permanent Employees
	13.2.2	Procedures For Layoff of Probationary Employees

**Rule 13.3 DISPLACEMENT (BUMPING RIGHTS)**

Section	13.3.1	Displacement Rights for Permanent Employees
	13.3.2	Rights of Non-Permanent Employees

**Rule 13.4 REEMPLOYMENT**

Section	13.4.1	Reemployment Rights of Permanent Employees
	13.4.2	Reemployment of Probationary Employees

## CHAPTER XIII

### SENIORITY, LAYOFF, DISPLACEMENT AND REEMPLOYMENT

Rule 13.1 SENIORITY PROVISIONS (EDUCATION CODE SECTION 88127)

13.1.1 SENIORITY DEFINED

- A. Seniority shall be defined as the length of time which a permanent classified employee has served in his/her class plus higher related classes.
- B. For service commencing on or continuing after July 1, 1971, length of service shall mean all hours in paid status in the class plus higher related classes during the regular school year, a recess period, a holiday, or an approved leave of absence with pay, but shall exclude hours compensated solely on an overtime basis.
- C. For service prior to July 1, 1971, length of service shall mean years of service in the class plus higher related classes. Seniority shall be credited for each year, month and day of service regardless of the assigned hours per day or months per year as follows:
  - 1. One year shall equal 2080 hours.
  - 2. One month shall equal 174 hours.
  - 3. One day shall equal eight (8) hours.

MRC appr: 9-19-91

13.1.2

COMPUTATION OF SENIORITY

- A. Computation of seniority in the class shall include hours in paid status up to a maximum of 40 hours per week including:
1. Vacation, sick leave, military and other paid leaves.
  2. Limited-term (substitute or temporary) or provisional assignments held after gaining permanency.
  3. Additional part time hours in the employee's class.
  4. Hours which the employee has transferred from employment with the Santa Monica-Malibu Unified School District prior to separation of the classified service on July 1, 1980.
  5. Hours which the employee has transferred from permanent and continuous employment with the Santa Monica College Associated Student Body prior to July 1, 1985.
  6. Hours served in restricted status upon qualification of the employee as provided in Rule 3.1.7.G.
- B. Computation of seniority shall not include:
1. Hours served or compensated for in a limited-term (substitute or temporary) or provisional assignment prior to entering into the classified service as a probationary employee.
  2. Any hours compensated solely on an overtime basis.
  3. Time in unpaid status including unpaid leave and docked time.

TABLE 13-1 SENIORITY CREDIT UPON CHANGE OF CLASS

<u>RECLASS</u>		<u>SENIORITY</u>
<p>From</p> <p>Abolished Class</p> <p>Existing Class (not abolished)</p>	<p>To</p> <p>New Class</p> <p>Existing higher class</p> <p>Existing lateral class</p> <p>New class</p> <p>Existing class</p>	<p>Keep old seniority</p> <p>Start new seniority</p> <p>Keep old seniority</p> <p>Start new seniority</p> <p>Start new seniority</p>
<p><u>RETITLE</u></p> <p>From</p> <p>Old Title abolished</p>	<p>To</p> <p>New Title established</p>	<p>Keep old seniority</p>
<p><u>LATERAL TRANSFER</u></p> <p>From</p> <p>Abolished class</p>	<p>To</p> <p>New class</p> <p>Existing class</p>	<p>Keep old seniority</p> <p>Keep old seniority</p>

13.1.3

GENERAL PROVISIONS

- A. Whenever a tie in seniority in the class exists, it shall be broken according to the following order:
  - 1. The employee with the longest total service in the District shall be accorded the greater seniority.
  - 2. The employee with the greater seniority in the higher class shall be accorded the greater seniority.
- B. If two (2) or more employees continue to be tied, the Personnel Director shall provide for the employees to draw lots to break the tie.
- C. When reclassification results either in the merger of two (2) or more classes into a newly created class and the abolishment of the previous class, or the separation of a class into two (2) or more newly created classes, seniority rights of regular employees who are reclassified with their positions shall be computed from the date the employee first began regular service in the former class(es).
- D. When an employee is reclassified with his/her position to an already existing class, seniority shall be computed from the effective date the position is reclassified.
- E. When an employee is transferred from one class to another, seniority in the new class shall begin on the effective date of the transfer.
- F. When a class is retitled to a newly created title and the old class title is abolished, the new class shall begin seniority on the date of hire in the previous class.

See Table 13-1 on accompanying page.

13.1.4

SENIORITY LISTS

- A. Seniority lists shall be prepared or updated for each class as necessary. When each list is initially established, it shall be approved by the Personnel Director and certified by the Personnel Commission before it is used.
- B. When a seniority list is initially established or updated, the list shall be made available to the employee (s) for review during a five (5) working day period before it is approved.
- C. During the prescribed review period, an employee who believes that an error has been made on his/her seniority computation shall notify the Personnel Director, who shall review the computations together with any additional information provided by the employee. The Personnel Director shall determine if a recomputation is appropriate and present an appropriate recommendation for action by the Personnel Commission.
- D. Seniority lists that are maintained will be available for inspection in the Classified Personnel Department.

Rule 13.2

LAYOFF PROCEDURES (EDUCATION CODE SECTIONS 88127, 88017, 88117)

13.2.1

PROCEDURES FOR LAYOFF OF PERMANENT EMPLOYEES

- A. The Board may lay off employees because of lack of work, lack of funds, or the abolishment, reclassification or reorganization of positions. 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 related classes shall be laid off first. Classified employees who have been laid off shall have the right of reemployment in the reverse order of layoff. The Personnel Director shall prepare a layoff list by class and it shall be certified at a regular or special meeting of the Personnel Commission. The list shall be used in carrying out all applicable rules in regard to layoff.
  
- B. When the Board of Trustees determines that classified employees must be laid off and has approved the positions and services or programs which are to be eliminated, the District Personnel Administrator shall notify the employees affected and the Personnel Director of the effective date of layoff and the Board approval date. The Personnel Administrator shall utilize the approved layoff list in effecting all layoffs under these Rules. The following procedures shall apply:
  - 1. Employees who are to be laid off shall be given at least a 45 calendar day notice prior to the effective date of the layoff.
  
  - 2. Employees who are to be laid off due to the expiration of a specially-funded program, shall be given a notice not less than 45 calendar days prior to the expiration date of the program.



3. The notice shall include:
  - a. the effective date of the layoff;
  - b. the employee's displacement (bumping and voluntary reduction) rights;
  - c. the employee's reemployment rights;
  - d. the employee's benefit entitlement, unemployment compensation rights and promotional testing preference.
4. The Board of Trustees may waive the 45 calendar day notification procedures for layoff due to lack of funds only in the event of an actual and existing financial inability to pay classified employee salaries.
5. When the assigned work year and/or the assigned hours of a position must be reduced, or when a position is reclassified to a lower level, the employee regularly assigned to the position shall be given the opportunity to elect a voluntary demotion or voluntary reduction in order to remain in the position. This demotion or reduction shall be in lieu of layoff.
6. Whenever a limited-term assignment exists in the same class in which a regular employee is to be laid off, the regular employee shall be offered the limited-term assignment. If the regular employee accepts it, the limited-term employee shall be terminated.

13.2.2

PROCEDURES FOR LAYOFF OF PROBATIONARY EMPLOYEES

- A. Probationary employees may be laid off at any time without regard to the minimum 45-day notice listed in Rule 13.2.1; however, the District shall make every effort to provide probationary employees the same minimum notification that is provided to permanent employees.

MRC appr: 9-30-91

Rule 13.3

DISPLACEMENT (BUMPING) RIGHTS

13.3.1

DISPLACEMENT RIGHTS FOR PERMANENT EMPLOYEES

- A. Displacement shall be defined as the replacement of a junior employee by an employee with more seniority in the same class.
  
- B. Permanent classified employees who are laid off may exercise displacement rights in their class or in any other class with the same or lower maximum salary in which they hold seniority credit greater than an incumbent. The employee who is displaced shall be the one with the least total seniority in the class (plus equal and higher classes). The following rules shall apply in determining displacement rights:
  - 1. In cases of reclassification, reorganization, or abolishment of position, or in cases where the employee is promoted and subsequently disqualified during probation, an incumbent's seniority in the class shall be computed as stated in Rule 13.1.2.
  
  - 2. An employee may displace only that employee within his/her class who has the least seniority in the class plus higher classes.
  
  - 3. When an employee displaces into a class having positions which are full time, part time and/or assigned to different yearly assignments, (such as 12, 11, 10, 9 month or school year or 157 days per year assignments), the employee shall be placed in that position with the next most comparable assignment. Decreases in assigned time shall be processed in accordance with Rule 9.6.3.

#### Section 13.3.1.B.4

4. If an employee waives the opportunity to displace within his/her own class, the employee may follow these procedures in any equal or lower class in which he/she holds seniority credit greater than the least senior incumbent, or the employee may be placed on a reemployment list.
5. When an employee exercises displacement rights into a lower class, the employee(s) shall receive credit for accumulated seniority in all related higher classes.
6. Each employee shall respond to the Personnel Director within one week after notification of layoff whether or not the employee will exercise displacement into his/her own regular class or any other class in which seniority is held.
7. Displacement into a lower class under this Rule shall be considered a voluntary demotion which shall qualify the employee for Y-rate salary placement under Rule 12.2.9.

13.3.2

RIGHTS OF NON-PERMANENT EMPLOYEES

- A. Probationary employees who are laid off shall hold no displacement rights but may be restored to their former place on eligibility list(s) from which they were appointed provided the list(s) have not expired.
- B. All other employees without permanency in the classified service, shall hold no displacement rights and may be terminated at the end of their work shift without regard to the notification procedures of Rule 13.2.
- C. No regular employee shall be laid off from any position while temporary (limited-term) employees are assigned to positions in the same class, unless the regular employee declines the temporary assignment.

Rule 13.4

REEMPLOYMENT

13.4.1

REEMPLOYMENT RIGHTS OF PERMANENT EMPLOYEES  
(EDUCATION CODE SECTIONS 88117, 88127)

- A. A permanent employee after having had the opportunity to exercise all rights guaranteed under this policy who must be laid off shall be placed on a preferential 39 month reemployment list. Reemployment in the first opening occurring in the class in which layoff has taken place shall be in the reverse order of seniority. The following procedures shall apply:
1. A laid off employee on a reemployment list may decline three (3) offers of reemployment in his/her former class. After the third refusal no additional offers need be made and the employee shall be considered unavailable until he/she indicates otherwise.
  2. If a laid off employee is on an eligibility list at the time of layoff, he/she shall remain on the list until he/she is placed, or the list is terminated, whichever occurs first.
  3. Laid off employees on reemployment lists shall be eligible to compete in promotional examinations for which they qualify.
  4. Laid off employees shall not accumulate seniority in the class while on the reemployment list.

## Section 13.4.1.B

- B. For purposes of this Rule the term, "reemployment list" shall mean a list of names of persons who have been laid off from permanent positions by reason of lack of work, lack of funds, or abolishment or reclassification of positions, or other reasons specified in these Rules, and who are eligible for reemployment without examination in their former class, arranged in order of their right to reemployment.
- C. An employee who has accepted a demotion in order to remain in his/her position in lieu of layoff has the right to be reemployed without examination, in accordance with his/her seniority in a vacant position in the employee's former class for 63 months after demotion provided that same tests of fitness still apply. Intervening assignments to other classes shall not abrogate this right.
- D. Upon reemployment the District shall restore to the employee all the rights, benefits and burdens of permanent employment in the class for which he/she is reemployed. Salary placement shall be determined according to Rule 12.2.13.

## 13.4.2

### REEMPLOYMENT OF PROBATIONARY EMPLOYEES

- A. Probationary employees who are reemployed after layoff into their former class from the appropriate eligibility list shall be credited for the time served as part of their probationary period.

## **CHAPTER XIV -- DISCIPLINARY ACTION AND APPEALS**

### **Rule 14.1 DISCIPLINARY ACTION – SUSPENSION, DEMOTION AND DISMISSAL (EDUCATION CODE SECTION 88123)**

Section	14.1.1	General Provisions
	14.1.2	Notice of Disciplinary Action
	14.1.3	Definitions
	14.1.4	Causes for Suspension, Demotion or Dismissal
	14.1.5	Procedure for Suspension
	14.1.6	Procedure for Demotion and Dismissal
	14.1.7	Procedure for Notification of Charges

### **Rule 14.2 PROCEDURE FOR APPEAL AND HEARING (EDUCATION CODE SECTIONS 88124, 88125) ?**

Section	14.2.1	Procedure for Appeal
	14.2.2	Procedure for Hearing
	14.2.3	Findings and Order
	14.2.4	Transcript of Hearing



## CHAPTER XIV

### DISCIPLINARY ACTION AND APPEALS

#### Rule 14.1

DISCIPLINARY ACTION - SUSPENSION, DEMOTION,  
AND DISMISSAL (EDUCATION CODE SECTION 88123)

#### 14.1.1

##### GENERAL PROVISIONS

- A. A permanent classified employee shall be subject to disciplinary action only for cause as prescribed by law or Section 4 of this Rule. No disciplinary action shall be taken against any permanent employee for any cause which arose prior to the date in which the employee became permanent, nor for any cause which arose more than two years preceding the date of the filing of the Notice of Disciplinary Action, unless such cause was concealed or not disclosed by the employee when it could reasonably be assumed that the employee should have disclosed the facts to the appropriate authority.
- B. No classified employee shall be suspended, demoted, or dismissed, or in any way discriminated against because of his/her affiliations, race, color, national origin, age, marital status, sex, disabilities, ancestry, medical condition (as defined in Government Code Section 12926), or religious or political beliefs or acts, except as provided in Section 4.A.6 of this Rule.
- C. No permanent or probationary classified employee shall be suspended, demoted or dismissed until final approval is given by the Board, except for suspensions processed under Section 5.C of this Rule.

#### 14.1.2

##### NOTICE OF DISCIPLINARY ACTION

- A. A Notice of Disciplinary Action under this Rule shall contain specific charges in ordinary and concise language of the individual acts or omissions of the employee which have resulted in the recommendation for disciplinary action. The charges shall also include a listing of the cause specified in Section 4 of this Rule which has been violated by the employee and the date(s), time(s) and place(s) when the violation occurred.

- B. The employee shall be advised of his/her right to respond either orally or in writing within 5 working days after receipt of the notice to the person so designated on the notice. The employee shall also be advised of his/her right to review and copy all documents in his/her personnel file on which the disciplinary action is based.
- C. All communications from the District to the employee shall either be:
  - 1. Delivered personally and signed for by the employee.
  - 2. Sent by certified mail, return receipt requested, to the last known address of the employee on file in the Personnel Commission Office.

14.1.3

DEFINITIONS

- A. Suspension shall mean the temporary removal of an employee from a position for cause with loss of pay as a disciplinary measure, or indefinite removal preliminary to investigation of charges pursuant to Section 88123 of the Education Code.
- B. Demotion shall mean the involuntary reduction of an employee from a class with a higher pay scale to a class with a lower pay scale or from a higher salary increment to a lower salary increment.
- C. Dismissal shall mean the involuntary separation of an employee from service for cause.

14.1.4

CAUSES FOR SUSPENSION, DEMOTION OR DISMISSAL

- A. A permanent classified employee may be subject to immediate disciplinary action by the Board only for the following causes:
  - 1. Insubordination, including, but not limited to refusal to do reasonably assigned work or any other serious breach of discipline.
  - 2. Discourteous, offensive or abusive conduct toward other employees, students or the public.

### Section 14.1.4.A.3

3. Misuse or theft, destruction or mishandling of District property, or property of employees of the District.
4. 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.
5. Unauthorized possession of opened alcoholic beverage containers or drinking alcoholic beverages or being intoxicated while on the job or unauthorized use of narcotics or habit forming drugs not prescribed by a licensed physician.
6. Engaging in political activities during assigned hours of employment.
7. Immoral conduct.
8. Conviction of a crime of violence or moral turpitude or a serious crime where the nature of the crime is such that it will indicate that the employee is a poor employment risk for the particular job which he/she holds in the District.
9. Conviction of a sex offense or a narcotics offense as defined in Education Code Sections 87010 or 87011.
10. Absence without approved leave or abuse of leave privileges.
11. Knowingly falsifying any information supplied to the District including but not limited to information supplied on application forms, employment records and other records.
12. Persistent violation or refusal to obey District safety rules or other procedures made applicable to the District by the Board, or by any appropriate state or governmental agency.

Section 14.1.4.A.13

13. Any willful failure of good conduct tending to injure the public service or its reputation with particular regards to students.
  14. Abandonment of position, which shall be interpreted to mean an absence without continued notification in excess of 5 working days except in case of dire emergency.
  15. Advocacy of the overthrow of federal, state, or local government by force, violence or other unlawful means.
  16. Willful or persistent violation of these rules or adopted and implemented procedures of a department when such procedures are made known to the employee in writing.
  17. Failure to report for review of criminal records or for a health examination after due notice.
- B. A permanent classified employee shall be subject to disciplinary action for the following causes only after completion of Need for Work Improvement and Unsatisfactory Work Performance Notices as provided in Section 6B of this Rule.
1. Incompetence, below standard work performance, a pattern of inefficiency, or continued negligence in the performance of the duties of his/her position.
  2. Repeated or unexcused tardiness or absence after warning.
- C. A permanent classified employee may be subject to removal from service or change in status under this rule due to physical or mental unfitness for service as determined by the District physician. The employee shall retain his/her right to appeal. The administration shall base its decision to recommend removal or change in status on the following factors:
1. The degree of physical or mental unfitness and the doctor's prognosis as they relate to the duties to be performed.

## Section 14.1.4.C.2

2. The number of positions in the employee's classification and subsequent uniqueness or degree of specialty in the position, and the availability of a person qualified to substitute during the absence of the employee.
3. The degree and frequency of previous sick leave usage. Particular attention shall be paid to employees who have extraordinary use or lack of use of sick leave, together with consideration for the circumstances surrounding previous use of sick leave.

14.1.5

PROCEDURE FOR SUSPENSION

- A. An employee may be suspended for cause as listed in Section 4.A of this Rule without pay for no more than 30 calendar days upon the approval of the Superintendent or the District Personnel Administrator subject to ratification by the Board of Trustees at their next regular meeting.
- B. When a request for suspension is made, a Notice of Disciplinary Action must be completed by the immediate supervisor and submitted to the District Personnel Administrator for final approval after approval by the departmental administrator. The Notice of Disciplinary Action must contain specific charges as required in Section 2 of this Rule and must be delivered to the employee not less than 1 working day prior to the effective date of the suspension. A copy of the notice shall be filed with the Personnel Director.
- C. An employee may be peremptorily suspended for up to one day without pay by his/her immediate supervisor with the approval of the departmental administrator for cause as listed in Section 4.A of this Rule when such suspension is necessary to safeguard the best interest of the District or the employee. Such suspensions shall be documented on the appropriate Notice of Disciplinary Action and presented to the employee prior to his/her return to work at a conference, with the employee's supervisor(s) and the Personnel Administrator. All procedures for notification required in these rules shall then be complied with.
- D. Preemptory Board suspensions are subject to ratification by the Board at the next meeting following the suspension.

14.1.6

PROCEDURE FOR DEMOTION AND DISMISSAL

- A. When a regular classified employee is recommended for demotion or dismissal for cause as listed in Section 4.A of this Rule, a Notice of Disciplinary Action shall be prepared by the immediate supervisor, approved by the departmental administrator, and transmitted to the District Personnel Administrator for final approval. A copy of the Notice shall be presented to the employee at least 5 working days prior to Board action as provided in section 2 of this Rule. A copy of this Notice shall also be filed with the Personnel Director. The District Personnel Administrator shall then present the recommendation for demotion or dismissal of the employee to the Board for action at their next meeting.
  
- B. In cases of disciplinary action arising from causes listed in Section 4.B of this Rule, the immediate supervisor and departmental administrator shall provide the employee with the following three Notices before demotion or dismissal can be recommended:
  - 1. First Notice: Need of Work Improvement
  - 2. Second Notice: Unsatisfactory Work Performance
  - 3. Final Notice: Recommendation of Disciplinary Action

The Notices shall be prepared according to procedures provided in Section 2 of this Rule and each notice shall provide a minimum 30 calendar day period for the employee to improve. Should the employee improve his/her performance to a satisfactory level, the immediate supervisor and departmental administrator shall document the employee's performance on the following form:

- 4. Job Performance Progress Report

Should the employee's performance not improve, the disciplinary action may proceed as specified in part A of this section.

Section 14.1.6.C

- C. An employee who has permanent status in the classified service and who has been promoted to a higher class may be demoted involuntary during the probationary period to his/her former class without right of appeal, unless the demotion shall result in separation of the employee from the classified service, or the employee's appeal falls under the provision of Section 1.B of this Rule.
- D. Dismissal shall cause removal of the employee's name from all employment lists.



14.1.7

PROCEDURE FOR NOTIFICATION OF CHARGES

- A. When the Board has taken final action to demote or dismiss the employee, the District Personnel Administrator shall, within 3 working days, notify the Personnel Director in writing of the Board's action.
- B. The Personnel Director shall, within 10 working days of the Board's action to approve suspension, demotion, or dismissal, notify the employee. The Personnel Director shall, at the next regular meeting, file written charges with the Commission.
- C. The notification of charges to the employee shall contain:
  - 1. A copy of the written charges.
  - 2. The time allowed to file an appeal.
  - 3. The right of the employee to a hearing on the appeal.
  - 4. The requirements for the employee's response as set forth in these Rules.

Rule 14.2

PROCEDURE FOR APPEAL AND HEARING (EDUCATION CODE SECTIONS 88124, 88125 ?)

14.2.1

PROCEDURE FOR APPEAL

- A. A permanent employee who has been suspended, demoted, or dismissed may appeal to the Personnel Commission within 14 calendar days after receipt of the Notice of Charges from the Personnel Director by filing a written answer to the charges and he/she may request a hearing.
- B. The employee's written answer to the charges must include facts based on the following grounds:
  - 1. That the charges made do not constitute sufficient cause for the action taken.
  - 2. That the action taken was not in accord with the facts.
  - 3. That there was an abuse of discretion.
  - 4. That the procedures set forth in these rules have not been followed.
  - 5. That the disciplinary action was taken because of political affiliations, or religious beliefs or opinions, race, color, national origin, ancestry, sex, employee organization members or non-membership, marital status, disability, or medical condition (as defined in Government Code Section 12926).
- C. For purposes of this Rule, if a notice is mailed, the working day following the postmark date and time of the notice shall be considered to be the official date and time of receipt.
- D. Failure to appeal as provided in this Rule shall make the action of the Board final and conclusive.

14.2.2

PROCEDURE FOR HEARING

- A. After an employee has made and filed his/her appeal in answer to the charges against him/her, the Personnel Commission shall investigate or cause to be investigated the matter on appeal and may require further evidence from either party. The Commission may, and upon request of an accused employee, shall order a hearing. If a hearing is to be conducted, the Personnel Commission shall then fix the time and place of the hearing which shall be within a reasonable length of time from the receipt of the appeal and shall provide written notification to all parties.

The Personnel Commission may appoint a hearing officer to conduct any hearing and report the findings and recommendations to the Commission. Such recommendations shall not be binding on the Commission.

- B. Hearings shall be conducted in the manner most conducive to determination of the truth, and neither the Commission nor its hearing officers shall be bound by technical rules of evidence. Decisions made by the Commission shall not be invalidated by any informality in the proceedings.
- C. The hearing shall be electronically tape recorded. However, 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 as determined by the Personnel Director.
- D. The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of testimony and evidence. It shall base its findings on a preponderance of evidence.
- E. The burden of proof shall be on the Board.

## Section 14.2.2.F

- F. Each party will be permitted an opening statement, with the Board or its designated representatives opening first. Each party shall be permitted closing arguments with the employee closing first. The Board shall next present its witnesses and evidence to sustain its charges, and the employee will then present his witnesses and evidence in defense.
- G. Each party will be allowed to examine and cross examine witnesses.
- H. The Board, the Commission and the employee will be allowed to be represented by separate legal counsel or other designated representatives.
- I. The Commission or the Personnel Director may and shall, if requested by the Board or the employee, subpoena witnesses and/or require the production of records or other material evidence.
- J. The Commission may, prior to or during a hearing, grant a continuance for any reason it believes to be important to its reaching a fair and proper decision.
- K. A hearing shall be held in closed session unless an open hearing is requested by the employee. The Commission may, at its discretion, exclude witnesses not under examination except the employee and the party attempting to substantiate the charges against the employee and their respective counsel. When hearing testimony on alleged scandalous or indecent conduct, all persons not having a direct interest in the hearing may be excluded.
- L. The Commission may deliberate its decision in closed session and exclude all persons other than members of the Commission and its staff or counsel. If its counsel also served as counsel for the Board, he/she shall be barred from the Commission's final deliberations.

14.2.3

FINDINGS AND ORDER

- A. The Commission shall render its judgment as soon after the conclusion of the investigation or hearing as possible, and unless an agreement for an extension is accepted by all parties, the decision shall be made within 14 calendar days after conclusion of the hearing. Its decision shall set forth which charges, if any, are sustained or rejected and the reasons therefore.
  - 1. The Commission's decision shall be set forth in writing by the Personnel Director and signed by the chairman of the Commission and be sent to all parties of interest.
  
- B. The Commission may sustain or reject any or all of the charges filed against the employee. If the Commission finds in favor of the employee, it may:
  - 1. Order the employee's reinstatement upon such terms and conditions as it may determine appropriate.
  - 2. Modify the disciplinary action, but not to make more stringent the action taken by the Board.
  - 3. Order paid all or part of the employee's full compensation from the time of suspension, demotion, or dismissal.
  - 4. Order paid by the Board compensation for all or part of the legitimate expenses incurred by all parties in pursuit of the appeal.
  - 5. Order the employee transferred or changed in work location.
  - 6. Order seniority credit for off-time pending reinstatement.
  - 7. Order expunction from the employee's personnel file all records pertaining to the disciplinary action on charges which were or were not sustained by the Commission.
  
- C. The decision of the Commission shall be final.

14.2.4

TRANSCRIPT OF HEARING

- A. A copy of the transcript of the hearing shall be furnished to either party upon written request made within 90 calendar days of the decision of the Commission. The Personnel Director shall cause the transcript to be typed and the cost of copies shall be borne by the party requesting such copies in an amount as determined by the Personnel Director to be representative of the actual costs of preparation.







- G. Employees who become members of the Public Employees Retirement System prior to July 1, 1980 will receive additional service credit on retirement of 0.004 years for each day of unused sick leave at the time of retirement. This benefit does not apply to any person who becomes a member on or after July 1, 1980.

15.1.2

CLASSIFIED EMPLOYEE EARLY RETIREMENT INCENTIVE (BOARD POLICY)

- A. The District shall continue to provide health and welfare benefits for regular classified management, confidential and unit employees to age 65 or until the employee's death, whichever occurs first.
  - 1. For management and confidential employees the retirement schedule shall be:
    - a. at age 50 or thereafter with 10 years of continuous service in the District.
    - b. at age 55 or thereafter with 5 years of continuous service in the District.
  - 2. For unit employees the retirement schedule shall be:
    - a. at age 55 or thereafter with 10 years of continuous service in the District.
- B. Paid benefits shall be limited to health insurance for the employee only and a family dental and vision insurance plan. For specific provisions see Rule 12.4.

Rule 15.2

REINSTATEMENT (EDUCATION CODE SECTION 88128)

15.2.1

GENERAL PROCEDURES

- A. A permanent employee who resigned in good standing may be reinstated in a vacant position in his/her former class and status within 39 months of the last date of paid service. He/she may also be reinstated in a vacant position in a lower related class, if qualified, or in limited-term status in the same or lower class. Such reinstatement is discretionary with the appointing authority.
  
- B. Reinstatement of a former employee shall have the following effects:
  - 1. If the employee is reinstated to a permanent position in his/her former class or a lower related class, he/she shall be restored all the rights, benefits, and burdens of a classified employee.
  
  - 2. Restoration of salary in accordance with Section 13 of Rule 12.2.

Rule 15.3

EMPLOYMENT OF PERS RETIREES (EDUCATION CODE SECTION 88034; GOVERNMENT CODE SECTION 21150)

15.3.1

GENERAL POLICY

- A. Any person receiving a retirement allowance from the Public Employees' Retirement System may be employed for up to 90 working days in a calendar year or 35 percent of the hours employed during the last fiscal year prior to retirement whenever other eligibles are not available and the retiree's skills or knowledge is needed, or during an actual emergency to prevent the stoppage of public business.
- B. The retired person must certify that he/she understands he/she is restricted in any calendar year to 90 working days or 35 percent of the hours employed during the last fiscal year prior to retirement with the District and his/her employment and continuance in employment is discretionary with the Governing Board.
- C. For the purposes of this Rule "working day" shall mean any day for which pay is received regardless of the number of hours worked.

15.3.2

COMPENSATION

- A. A retired employee under authority of this Rule shall be entitled only to the appropriate salary earned to include overtime compensation as provided for in Section 2 of Rule 12.3.
- B. Retired employees appointed to positions in their previous class or classes shall be placed on the step of the salary schedule closest to their last regular rate of pay. Retired personnel appointed to positions in other classifications shall be placed on the first step of the appropriate range on the salary schedule.

15.3.3

ASSIGNMENT

- A. A retired employee employed under this Rule is not subject to reinstatement to PERS nor does the compensation period provide for retirement allowance adjustment.
- B. The appointing authority shall certify to the Personnel Director that a retired employee employed under this Rule meets the provisions thereof and his/her combined calendar-year employment does not exceed 90 working days or 35 percent of the hours employed during the last fiscal year prior to retirement.



## CHAPTER XVI

### GRIEVANCE PROCEDURES

Rule 16.1 GRIEVANCE PROCEDURES FOR CLASSIFIED PERSONNEL

16.1.1 PURPOSE OF THE GRIEVANCE PROCEDURE

- A. The Grievance Procedure is the medium through which permanent classified employees may seek adjustment of complaints arising out of alleged violations of established Board rules or policies or administrative procedures, other than the provisions of any contract agreement with an exclusive representative, and employee working conditions or job relations, including the complaint of one employee against another employee. Because complaints should be adjusted in a prompt and orderly manner, various steps and time limits have been established to assist in resolution at the administrative level closest to the employee and to minimize delays. It shall be the obligation of the aggrieved employee to cooperate in this process by making known the existence of his/her complaint at the earliest possible date so that efforts can be made through the grievance procedure to resolve differences and promote harmonious relationships.

16.1.2

MATTERS EXCLUDED

- A. Matters excluded from the grievance procedure shall be:
1. Matters within the jurisdiction of the Personnel Commission and included in Personnel Commission Rules in effect at the time the events leading to the grievance occurred. Such matter(s) shall be presented directly to the Personnel Director who shall present the matter(s) to the Personnel Commission at a regular or special meeting.
    - a. Before a grievance is carried to step 2 of the procedure, the Personnel Director shall be notified. He/she will review the grievance to determine if the matter is within the jurisdiction of the Commission's rules. He/she shall make the determination and report his/her decision to the Commission at the next regularly scheduled meeting.
    - b. In cases where the Personnel Commission rules regulate less than the total procedure, the Commission may waive that rule and thereby provide that the dispute be settled through the grievance adjustment procedure.
  2. Complaints about the subject matter of a Board policy, Commission rule, or administrative procedure, rather than the administration of the Board policy, Commission rule or administrative procedure. An employee with such a complaint should direct his/her suggestions for change(s) through regular administrative channels to the Board, Commission or administrator who established it.
  3. Matters which are part of the contract agreements with Chapter 36, CSEA. Such grievances shall be processed according to the provisions of Article 10 of the Agreements between Chapter 36, CSEA and the District.

4. Accusatory charges relating to the moral or professional fitness of the employee. Such charges shall be submitted to the Superintendent for presentation to the Board of Trustees.

16.1.3

GENERAL PROCEDURES

- A. The grievant and the employer shall have the right, at each step of the grievance procedure beyond step 1, to be represented by person or persons of their own choosing.
- B. The District Personnel Administrator shall bear the responsibility for the maintenance of records. The Personnel Director shall have access to such records. The District Personnel Administrator and the Personnel Director shall share the joint responsibility for rendering services essential to the resolution of the grievance.
- C. During the course of any proceeding and until a final settlement has been reached, all proceedings shall be private and confidential. By mutual consent of the participating parties, exceptions to the foregoing may be permitted.
- D. Conscientious efforts shall be made to process the grievance as rapidly as possible. The time limit specified at each step is the maximum. Attempts shall be made to expedite the process so that no grievance shall remain unresolved at the end of the college year.
  1. A decision rendered at any step during the grievance procedure becomes final unless appealed within the time specified for the particular step.
  2. If a decision is not submitted within the time established for that step an appeal may be taken directly to the next level.
  3. The time limits stipulated at each step may be modified by agreement of the parties involved.



### Section 16.1.3.E

- E. No reprisal, discrimination, or reduction in status shall be invoked against any employee for having instituted grievance procedures, or for having participated as a representative, conferee, or witness.
- F. At any time during the course of grievance procedures, the grievant and the employer may consult with persons other than those involved in the complaint. Persons being consulted need not be employees of the District.
- G. All documents, communications, and records used in processing a grievance shall be filed separately from personnel files of the participants. This special file shall be maintained in the office of the District Personnel Administrator and shall be confidential.
- H. During the course of grievance procedures, efforts will be made to minimize expenses to all participants. Therefore, the processing of grievances shall occur, insofar as circumstances permit, at times when the employee is not required to be on duty.

The grievant and any employee(s) representing him/her shall be required to utilize appropriate leave for any work time used in preparing or hearing the grievance. Any classified employee of the District required to be absent from his/her assigned duties to testify as a witness in a grievance shall suffer no loss of pay.

16.1.4

STEPS IN THE PROCEDURE

A. Step 1 - Informal Conference

Within 30 calendar days from the occurrence of an event upon which the grievance is based, or within 30 calendar days of the employee's knowledge of the event, the grievant shall provide notification of the problem to his/her immediate supervisor; shall no sooner than 3 working days nor longer than 5 working days, arrange a meeting with the employee to discuss the grievance.

1. If the grievant fails to notify his/her immediate supervisor or administrator of the matter within the allotted time he/she shall be deemed to have waived his/her right to pursue grievance procedures.
2. At the informal conference between the employee and his/her immediate supervisor there shall be a conscientious attempt to resolve the complaint without the necessity of appeal. It shall be the intent of the grievance policy to utilize formal grievance procedures only when informal fail to accomplish a satisfactory and equitable resolution of the problem.

Within three working days of the informal conference with the grievant, the immediate supervisor or the administrator at the lowest administrative level with appropriate authority to resolve the grievance, shall communicate his verbal decision to the employee.

B. Step 2 - Review by Department Head

If the grievant is dissatisfied with the verdict of the immediate supervisor, he/ she may within five working days of the decision, submit a written appeal to the Division Dean or Administrator.

1. The appeal shall contain the grievant's name, position, a clear and concise statement of the conditions and circumstances responsible for instituting grievance procedures, course of action to date, including a summary of the decision reached at step 1, and a proposed solution.
2. Within three working days after receiving the written request for an appeal, the Division Dean or Administrator shall complete an investigation of the issues including meeting with the grievant. The grievant shall receive the Division Dean or Administrator's written decision within five days following the conclusion of the investigation.
3. The investigation conducted by the Division Dean or Administrator shall not assume the status of a hearing. The Division Dean or Administrator shall avail himself of the services provided by the District Personnel Administrator and the Personnel Director, consult with the grievant or his/her designated representatives, or any person or persons capable of contributing to an immediate and equitable resolution of the grievance.

Section 16.1.4.C

C. Step 3 - Administrative Review by District Personnel Administrator

Within three working days following receipt of the decision from the Division Dean or Administrator, the grievant may appeal, in writing, to the District Personnel Administrator. The appeal shall be accompanied by transcript of records indicating course of action to date, including the decision of the division Dean or Administrator. A copy of the appeal shall be sent to the Superintendent for information only.

Within three working days after receiving the written

request for an appeal, the District Personnel Administrator shall complete an investigation of the issues including meeting with the grievant. The grievant shall receive the District Personnel Administrator's written decision within five working days following the conclusion of the investigation.

D. Step 4 - Formal Hearing

If the grievant is dissatisfied with the decision rendered by the District Personnel Administrator, he/she may submit within five working days, a written appeal to the Board.

At the next regular Board meeting after receiving the request for appeal, the Board shall conduct a hearing and render a decision. The decision shall be considered final and binding on all parties to the grievance.

Copies of the Board's decision shall be distributed to the grievant and the Superintendent.

E. Step 5 - Personnel Commission Review

In grievance matters affecting the Commission's staff the above procedure shall be altered to include processing through the Commission's staff levels of authority to the Personnel Commission. All other provisions shall apply, but the Personnel Commission's decision shall be final.

## CALIFORNIA EDUCATION CODE

### SECTIONS 88060-88139

#### **88060. Personnel Commission and director.**

Any community college district adopting the provisions of this article in accordance with Section 88052 or 88057 of this chapter shall cause the personnel commission to be appointed in the manner prescribed in Sections 88065, 88066 and 88067. The personnel commission shall appoint the personnel director in the manner provided in Section 88084 after appointment of at least two of its members.

#### **88061. Power of governing board over persons in nonacademic positions.**

In any district in which the procedure set forth in this article has been incorporated the governing board shall employ, pay, and otherwise control the services of persons in nonacademic positions in accordance with the provisions of this article. No governing board shall remove a position from the classified service by title assignment or otherwise unless the position is one for which minimum qualifications have been established by the board of governors pursuant to Section 87356.

#### **88063. Personnel Commission; increase or decrease in membership; expenses.**

In any district that has adopted the provisions of this article there shall be appointed a personnel commission composed of either three or five members. The governing board of any community college district, by a majority vote, and with the agreement of the existing personnel commission of the district, if that commission is in existence, may elect to increase the membership of the personnel commission from three to five members or to decrease the membership from five to three members. If two or more districts are under the jurisdiction of governing boards of identical personnel, only one commission shall be appointed. In those cases this article shall apply alike to all of the districts, and the expenses of the commission shall be paid out of the general funds of all of the districts in proportion to the benefits derived there from as determined by the governing board.

#### **88063.5. Community college districts formerly governed by boards of identical personnel; rights of nonacademic employees.**

Notwithstanding Section 88063 or any other provision of law, in the case of a community college district that was formerly under the jurisdiction of governing boards of identical personnel for both the community college district and a unified district and that had a majority of its population within an incorporated city which had a population between 70,000 and 75,000 as of the 1950 census, and where the governing board, by affirmative vote of the majority of its members, made this article applicable to each of the districts individually and separately, the rights of persons employed in nonacademic positions shall continue in the same manner as if the separation had not occurred, except that the rights shall be limited to the district in which the person is employed on the day the action was taken by the governing board. For purposes of determining seniority, employment shall be deemed to have commenced as of the date of original employment in either the unified district or the community college district.

**88064. Qualifications for membership on personnel commission.**

(a) To be eligible for appointment or reappointment to the commission, a person shall meet both of the following requirements:

(1) Be a registered voter and resident within the territorial jurisdiction of the community college district.

(2) Be a known adherent to the principle of the merit system.

(b) No member of the governing board of any community college district or a county board of education shall be eligible for appointment, reappointment, or continuance as a member of the commission. During his or her term of service, a member of the commission shall not be an employee of the district.

(c) As used in this section, "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 or her prior public or private service has given evidence that he or 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 section, "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 or she does, in fact, support the merit system and its operation.

**88065. Appointment of members of personnel commission.**

One member of the commission shall be appointed by the governing board of the district and one member, nominated by the classified employees of the district, shall be appointed by the governing board of the district. Those two members shall, in turn, appoint the third member.

As used in this section, "classified employees" shall mean an exclusive representative which represents the largest number of classified employees in a unit or units within the district. If there is no such exclusive representative within the district the governing board shall, by written rule, prescribe the method by which the recommendation is to be made by its classified employees.

In any community college district which has a five-member personnel commission, two members of the commission shall be appointed by the governing board of the district and two members, nominated by the classified employees of the district, shall be appointed by the governing board of the district. Those four members of the personnel commission shall, in turn, appoint the fifth member to the commission.

**88066. Appointment procedure; subsequent vacancies; discharge of duties until successor appointed.**

(a) Within 30 days after adoption of the system the governing board shall publicly announce its intended appointee, and the appointee or appointees, as appropriate, nominated by its classified employees. As soon after their appointment as practicable but within 30 days, the appointed members shall announce their intended appointee for the third or fifth member, as appropriate. They may consider the recommendations of the governing board, the classified employees, or other concerned citizens. If these members do not announce their intended appointee within the 30-day period, the Chancellor of the California Community Colleges shall make the appointment. "Adoption of the system" means, in the case of Section 88051, the day on which a successful election is certified to the governing board or, in the case of Section 88054,

the day the governing board approves a motion, order, or resolution to adopt the system regardless of the date specified for operational commencement of the system.

(b) Where a system is already in existence and a vacancy will exist on December 1, by not later than September 30:

(1) The governing board shall publicly announce the name of the person it intends to appoint or reappoint, if the vacancy is its appointee.

(2) The appointee or appointees, as appropriate, of the governing board and the appointee or appointees of the classified employees shall publicly announce the name of the person they intend to appoint, if the vacancy is their appointee. If the governing board and the classified employees of the district are unable to agree upon a nomination by September 30, the Chancellor of the California Community Colleges shall make the appointment within 30 days.

(c) Where a system is already in existence and a vacancy in a position nominated by the classified employees will occur, the classified employees shall submit the name of its nominee to the governing board at least 30 days prior to the date on which the vacancy will occur and the governing board shall appoint that nominee to be effective on the date on which the vacancy would occur.

(d) At a board meeting to be held after 30 and within 45 days of the dates specified in subdivision (a) and paragraph (1) of subdivision (b), as the case may be, the governing board in open hearing shall provide the public and employees and employee organizations the opportunity to express their views on the qualifications of those persons recommended by the governing board for appointment. The board at the time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing. In the case of the nominees of the classified employees, 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.

(e) In the event a vacancy exists because of a failure of the classified employees to agree on a nominee, the board may make an emergency appointment as authorized in subdivision (b) of Section 88065. If there is no personnel director, the board may nevertheless make an emergency interim appointment under this subdivision.

(f) At the next regularly scheduled personnel commission meeting to be held after 30 days from adoption of the system, as specified in subdivision (a), or at the next regularly scheduled personnel commission meeting to be held after 30 days from the day the intended appointee is announced, as specified in paragraph (2) of subdivision (b), as the case may be, the appointee or appointees of the governing board and the appointee or appointees nominated by the classified employees shall, in an open hearing, provide the public and employees and employee organizations the opportunity to express their views on the qualifications of each candidate recommended for the vacancy. Each candidate shall be invited to this meeting. The appointee or appointees of the governing board and the appointee or appointees nominated by the classified employees may make their appointment or may make a substitute appointment or recommendation without further notification or public hearing.

(g) A commissioner whose term has expired may continue to discharge the duties of the office until a successor is appointed, but for no more than 90 calendar days. This subdivision shall become operative on January 1, 1994.

**88067. Terms of office.**

Appointees to a commission in a district which has newly adopted the system shall take office upon receipt of notification of the appointment but the term of office shall run from noon of the first day of December next succeeding.

In community college districts with a three-member personnel commission, the initial appointee of the governing board shall serve a three-year term, and the term of the appointee recommended by classified employees and the third member selected by the other two members shall be for two years and one year respectively.

In community college districts which have elected to establish a five-member personnel commission, one of the initial appointees of the governing board, and one of the initial appointees nominated by the classified employees shall serve three-year terms. The term of the other initial appointee of the governing board and the other initial appointee nominated by the classified employees of the district, shall be for two years, and the term of the appointee selected by the other members of the commission shall be for one year.

Subsequent terms shall be for three years commencing at noon the first day of December.

A three-member commission may perform any act authorized or required by law when two members have been appointed.

A five-member commission may perform any act authorized or required by law when three members have been appointed.

**88068. Vacancies.**

(a) Appointment to vacancies occurring subsequent to the initial appointment shall be made by the original appointing authority either for a new full term or to fill an unexpired term. The procedures required in Sections 88065 and 88066 shall be followed in the appointment and recommendation for appointment to fill vacancies occurring subsequent to the initial appointments.

(b) Notwithstanding subdivision (a) the governing board at the request of the personnel director shall declare that an emergency exists and shall make an interim appointment to fill a vacancy or vacancies to insure the continuance of the functions of the personnel commission. An interim appointment shall terminate on the date the notification of permanent appointment is received by the appointee.

(c) An interim appointee must meet the requirements of Section 88064 and be free of the restrictions contained therein.

(d) An interim appointment in no event shall be valid for more than 60 days.

**88069. Appointment procedure in certain community college districts; subsequent vacancies; discharge of duties until successor appointed.**

In a community college district that has already adopted this article on September 17, 1965, members of the personnel commission shall be appointed by the Chancellor of the California Community Colleges who shall consider the recommendation of the governing board and other interested parties.

If the governing board and the personnel commission of a community college district elect to increase the personnel commission from three to five members, the Chancellor of the California Community Colleges shall make one of the additional appointments. Subsequent appointments shall be made in accordance with this section.

No later than 90 days prior to making the appointment, the Chancellor of the California Community Colleges shall notify the classified employees and the governing



board in writing of the vacancy on the personnel commission and provide them with guidelines and procedures for making a recommendation and challenging a nomination. If a vacancy occurs during the term of a member of the personnel commission, the chancellor may appoint a new member after providing the foregoing notice no later than 30 days prior to making the appointment.

A commissioner whose term has expired may continue to discharge the duties of the office until a successor is appointed but for no more than 90 calendar days.

As used in this section, "classified employees" means an organization of classified employees that represents the greatest number of classified employees of the district as determined by the board. If no such organization exists within the district, the governing board, by written rule, shall prescribe the method by which the recommendation is to be made by its classified employees.

**88070. Compensation of board members of personnel commission.**

The governing board may authorize payment to members of the commission an amount not to exceed fifty dollars (\$50) per meeting and not to exceed two hundred fifty dollars (\$250) per month.

**88071. Compensation of members of personnel commission in community college district.**

In a community college district with an average daily attendance in excess of 40,000 and which is located in a metropolitan area with a population of more than 4,000,000, the governing board may authorize payment to members of the commission an amount not to exceed one hundred dollars (\$100) per meeting, and not to exceed five hundred dollars (\$500) per month.

**88072. Office accommodation of personnel commission.**

The governing board shall provide the commission with suitable office accommodations.

**88073. Annual budget of personnel commission.**

The commission shall prepare an annual budget for its own office which, upon the approval of the county superintendent of schools, shall be included by the governing board in the regular budget of the community college district. The annual budget of the commission may include amounts for the purposes of Section 88075.

The budget shall be prepared for a public hearing by the commission to be held not later than May 30 of each year. The commission shall forward a copy of its proposed budget to the governing board indicating the time, date and place for the public hearing of the budget and shall invite board and district administration representatives to attend and present their views. The commission shall fully consider the views of the governing board prior to adoption of its proposed budget. The commission shall then forward its proposed budget to the county superintendent of schools for action.

If the county superintendent of schools proposes to reject the budget as submitted by the commission, he shall, within 30 days after the commission's submission of the budget, hold a public hearing on the proposed rejection within the affected district. He shall have informed both the commission and the governing board of the date, time and place of the hearing. He may after such public hearing either reject, or, with the concurrence of the commission, amend the proposed budget. In the absence of

agreement between the personnel commission and the county superintendent the budget of the preceding year shall determine the amount of the new budget, and the items of expenditure shall be determined by the commission.

**88075. Expenditure of funds for staff training.**

The commission may, with respect to the staff of the commission, expend funds for their orientation, training, retraining, and development and for any purpose prescribed by Article 7 (commencing with Section 88220) of this chapter.

**88076. Establishment of classified service; definitions; positions excluded.**

(a) The commission shall classify all employees and positions within the jurisdiction of the governing board or of the commission, except those which are exempt from the classified service, as specified in subdivision (b). The employees and positions shall be known as the classified service. "To classify" shall include, but not be limited to, allocating positions to appropriate classes, arranging classes into occupational hierarchies, determining reasonable relationships within occupational hierarchies, and preparing written class specifications.

(b) The following positions and employees are exempt from the classified service:

(1) Academic positions.

(2) Part-time playground positions.

(3) Full-time students employed part time.

(4) Part-time students employed part time in any college work-study program or in a work experience education program conducted by a community college which is financed by state or federal funds.

(5) Apprentice positions.

(6) Positions established for the employment of professional experts on a temporary basis for a specific project by the governing board or by the commission when so designated by the commission.

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.

However, nothing in this section shall prevent an employee, who has attained regular status in a full-time position, from taking a voluntary reduction in time and retaining his or her regular status under the provisions of this law.

No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exceptions listed above shall be employed outside the classified service.

A part-time position is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 87 percent of the normally assigned time of the majority of employees in the classified service.

**88077. Temporary positions excluded from classified service.**

Nothing contained in Section 88076 shall be interpreted to exclude the employment of architectural and engineering firms employed on a temporary basis for a specific project by a governing board or the commission when so designated by the commission.

**88078 Exemptions from classified service; community representatives in advisory or consulting capacities.**

In addition to the exemptions authorized in Section 88076, there shall be exempt from the classified service positions established for the employment of community representatives in advisory or consulting capacities for not more than 90 working days in a fiscal year, provided that:

(1) The authorized duties are not those normally assigned to a class of positions in the classified service,

(2) The authorized duties are approved by the personnel commission in advance of employment, and

(3) A regular classified employee of the community college district shall not receive a concurrent appointment to such a position.

**88079. "Restricted" employees classification.**

If the governing board of any community college district establishes positions and restricts initial appointment of new employees to mentally, physically, or developmentally disabled persons, then such positions shall, in addition to the regular class title, be classified as "restricted." The positions shall be part of the classified service and persons so employed shall be classified employees for all purposes except that they shall not be subject to the provisions of Section 88091 or 88092, and that they shall not acquire permanent status or seniority credit and shall not be eligible for promotion into the regular classified service until they have complied with the provisions of subdivision (c) of Section 88005.

**88079.1 Repealed by Stats. 1995, c.758 (A.B.446), Section 209.**

**88080. Power of personnel commission to prescribe, amend and interpret rules.**

(a) The commission shall prescribe, amend, and interpret subject to this article, such rules as may be necessary to insure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness. The rules shall not apply to bargaining unit members if the subject matter is within the scope of representation, as defined in Section 3543.2 of the Government Code, and is included in a negotiated agreement between the governing board and that unit. The rules shall be binding upon the governing board, but shall not restrict the authority of the governing board provided pursuant to other sections of this code.

(b) No rule or amendment which would affect classified employees who are represented by a certified or recognized exclusive bargaining representative shall be adopted by the commission until the exclusive bargaining representative and the community college employer of the classified employees who would be affected have been given reasonable notice of the proposal.

**88081. Subjects of rules.**

(a) The rules shall provide for the procedures to be followed by the governing board as they pertain to the classified service regarding applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, performance evaluations, public advertisement of

examinations, rejection of unfit applicants without competition, and any other matters necessary to carry out the provisions and purposes of this article.

(b) With respect to those matters set forth in subdivision (a) which are a subject of negotiation under the provisions of Section 3543.2 of the Government Code, such rules as apply to each bargaining unit shall be in accordance with the negotiated agreement, if any, between the exclusive representative for that unit and the public school employer.

**88082. Printing and distribution of rules.**

The rules of the commission and copies of this article shall be printed and made available to each school, office, and permanent worksite where employees report and shall be distributed to school libraries for loan to employees.

Within one year of when a district adopts the merit system, the commission shall adopt rules pursuant to Section 88080 and shall give to each new regular employee a handbook which summarizes the basic rules and working conditions for classified employees and provides information regarding access to copies of the complete rules and the merit system.

**88083. Powers and duties of personnel commission regarding apprenticeships.**

The commission may classify as apprentice positions certain positions where the principal requirement is that of learning to perform efficiently, by study and practice, specific duties concerning which a definite plan of systematic instruction and special supervision has been approved by the California Apprenticeship Council for the designated trade.

The apprenticeship training plan adopted by the governing board of the community college district shall be approved by the California Apprenticeship Council.

No assignment to any position classified as an apprentice position shall be allowed to continue beyond the predetermined apprenticeship period approved by the California Apprenticeship Council for the designated trade, except that the community college district's joint apprenticeship committee may approve retention of an employee as an apprentice up to six months beyond the predetermined apprentice period.

The selection of eligible persons shall be made in accordance with their position on employment lists established by competitive or qualifying examinations.

Section 88033 shall be applicable to apprentice positions. However, relative age may be considered as a factor in the ranking of candidates for apprentice positions.

Credit for prior training in a regularly indentured apprenticeship program shall be given to qualified candidates.

In all cases of apprenticeship probationary periods, the standards of duration and qualifications shall be fixed by the commission insofar as they do not exceed the maximum standards set up by the California Apprenticeship Council. Termination for cause may be prescribed for any apprentice who fails to attain the predetermined standards of apprenticeship or for causes as prescribed by the rules of the commission.

The commission shall recommend to the governing board a graduated scale of compensation rates for the various levels of apprentices, taking into consideration the percentage relationship to the districts' journeyman wage of the trade as provided in the statement of policies of the California Apprenticeship Council.

The commission may determine that promotional examinations shall be held for entrance into various levels of apprentice positions and entrance into journeyman positions in a skilled trade.

**88084. Appointment by commission of personnel director and other employees; supervision.**

The commission shall appoint a personnel director within 90 days after the adoption of a merit system from an eligibility list established from a competitive examination given under the auspices of the commission. The commission shall appoint all employees paid from funds budgeted for the support of the commission and shall supervise the activities of those employees that are performed as a part of the functions of the commission. These employees shall be appointed from eligibility lists established pursuant to the provisions of this article, be classified employees of the community college district and shall be accorded all the rights, benefits, and burdens of any other classified employee serving in the regular service of the district, including representation by the appropriate exclusive representative, if any.

**88085. Contracting for personnel director.**

Notwithstanding the provisions of Section 88084, the personnel commission, in a community college district employing 100 or fewer classified employees, may, with the consent of a majority of the classified employees, contract for the services of a qualified personnel director with another school district having the merit (civil service) system, or a city or a county governmental agency if the city or county has a civil service system for the management of its employee personnel.

Such a contract shall be for not more than two years and may be extended, with the approval of a majority of the classified employees, for additional periods not to exceed two years at one time.

If at the end of any contract period the district is employing more than 100 classified employees, the personnel commission shall then comply with the provisions of Section 88084.

A contract approved under the provisions of this section shall become null and void in the event of district reorganization when the provisions of the contract, if continued in force would supersede or be in conflict with the provisions of Section 88019.

**88086. Duties of personnel director; freedom from prejudice or bias; restriction on advice or recommendation regarding certain disciplinary action appealed.**

(a) The personnel director shall be responsible to the commission for carrying out all procedures in the administration of the classified personnel in conformity with this article and the rules of the commission, and shall be free of prejudice or bias in order to ensure the impartiality of the commission. He or she shall also act as secretary of the commission and shall prepare, or cause to be prepared, an annual report which shall be sent by the commission to the governing board.

(b) A personnel director shall not advise or make recommendations to the commission regarding any disciplinary action appealed to the commission under Section 88124, if the personnel director is the party who brought the action against the employee.

**88086.5. Provisions applicable to noncertificated employees applicable to districts with merit system.**

Sections 88022, 88023, 88160, 88198, 88199, 88201, and 88202 are applicable to the employees of community college districts that have adopted a merit system pursuant to the procedure set forth in this article.

This section is declaratory of existing law. The sections here enumerated are to be construed and applied in the same manner and with the same effect as when they were applicable to the employees of those school districts prior to the enactment of Section 88000 by Chapter 1267 of the Statutes of 1959, and in accordance with the applicable provisions of this article and the rules of the personnel commission.

**88087. Salary schedule for the classified service.**

The commission shall recommend to the governing board salary schedules for the classified service. The governing board may approve, amend, or reject these recommendations. No amendment shall be adopted until the commission is first given a reasonable opportunity to make a written statement of the effect the amendments will have upon the principle of like pay for like service. No changes shall operate to disturb the relationship which compensation schedules bear to one another, as the relationship has been established in the classification made by the commission.

**88088. Persons deemed in permanent classified service.**

Any person who has been continuously employed in a position defined as a position in the classified service for a period of six months immediately preceding the date on which the procedure set forth in this article is adopted shall be deemed to be in the permanent classified service. No layoff or suspension of service during the time when the schools of the district are not in session shall count as an interruption of continuous service.

**88089. Persons deemed under probationary classifications.**

All persons who have been continuously employed by a community college district for less than six months immediately preceding the date on which the procedure set forth in this article is adopted shall be deemed to hold their positions under probationary classification.

**88090. Rights of employees serving in nonacademic position by virtue of change in law.**

Any employee serving in an academic position whose position is by virtue of change of law deemed to be in the classified service shall without examination become a member of the classified service in accordance with the terms of Sections 88088 and 88089. Full seniority rights shall be retained, except that no seniority credit shall be allowed by virtue of previous academic service in case of layoff for lack of funds or lack of work. Any employee serving in a classified position whose position is by virtue of change of law deemed to be an academic position shall without examination become an academic employee and shall be deemed to have the necessary qualifications for the position. Full seniority rights will be retained, except that no seniority credit will be allowed by virtue of previous classified service in case of layoff for lack of funds or lack of work. Any such person who has been continuously employed in a regular position in the classified service for the length of time necessary to acquire permanency as a faculty member shall, if employed as a faculty member, be deemed to be tenured. Any such person serving in a regular position in the classified service for an amount of time less than that necessary to acquire faculty tenure shall be a probationary employee of the district; such regular classified service shall be considered as probationary service toward the attainment of tenure as a faculty member.

**88091. Vacancies in classified service; promotional applicants; exemptions.**

(a) All vacancies in the classified service shall be filled pursuant to this article and the rules of the commission, from applicants on eligibility lists which, wherever practicable, as determined by the commission, shall be made up from promotional examinations, or appointments may be made by means of transfer, demotion, reinstatement, and reemployment in accordance with the rules of the commission. All applicants for promotional examinations shall have the required amount of service in classes designated by the commission or meet the minimum qualifications of education, training, experience, and length of service, which shall be determined by the commission to be appropriate for the class for which they have applied. Any promotional applicant who has served the required amount of time in a designated class or who meets the minimum qualifications for admission to a promotional examination shall be admitted to the examination. Applicants shall be placed on the eligibility lists in the order of their relative merit as determined by competitive examinations. The final scores of candidates shall be rounded to the nearest whole percent for all eligibles. All eligibles with the same percentage score will be considered as having the same rank. Appointments shall be made from the eligibles having the first three ranks on the list who are ready and willing to accept the position.

(b) Upon the request of a majority of the members of the governing board of a community college district, the commission may exempt two executive secretarial positions from the requirements of this section. Exemptions authorized under this subdivision shall be limited to one executive secretary position reporting directly to members of the governing board, and one executive secretary position reporting directly to the chancellor.

Any person employed in an exempt executive secretarial position shall continue to be afforded all of the rights, benefits, and burdens of any other classified employee serving in the regular service of the district, except he or she shall not attain permanent status in an executive secretarial position. Positions of executive secretary shall be filled from an unranked list of eligible employees who have been found to be qualified for the positions as specified by the district superintendent and determined by the personnel commission. Any person whose services in an executive secretarial position are discontinued for a cause other than a cause for disciplinary action specified in this code or in a rule of the commission shall have the right to return to a position in a classification he or she previously occupied or, if that classification no longer exists, in a similar classification, as determined by the commission. This subdivision shall apply only to the employees hired on or after January 1, 1988.

Nothing contained in this section shall authorize the selection of eligible candidates in circumvention of the affirmative action programs of any community college district.

**88092. Examinations; examination boards; membership; recordings.**

Examinations shall be administered objectively and shall consist of test parts that relate to job performance.

For classes of positions deemed by the commission or by the authority responsible for the administration of classified employee examinations to require an oral examination, the oral examination board shall include at least two members.

Unless specifically directed to evaluate candidates' technical knowledge and skills, the oral examination board shall confine itself to evaluating general fitness for employment in the class. When the oral examination board is directed to evaluate technical knowledge and skills, at least two members of the board shall be technically qualified in

the specified occupational area. Members of the governing board or personnel commission shall not serve on an oral examination board. A district employee may serve on an oral examination board if he or she is not at the first or second level of supervision over a vacant position in the class for which the examination is held.

The personnel commission shall provide for the proceedings of all oral examinations to be electronically recorded. In no case will an oral examination board be provided with confidential references on employees of the district who are competing in promotional examinations. Scores achieved by the candidate on other parts of the examination shall not be made available to the oral examination board.

**88093. Retention and availability of examination records; review and protests.**

Examination records, including any recordings and the rating sheet of each member of the oral board for each candidate, shall be retained by the body authorized to administer examinations for a period of not less than 90 days after promulgation of an eligibility list. The commission shall prescribe procedures whereby candidates may review and protest any part of an examination. 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. 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.

**88094. Repealed by Stats.1984, c. 521, section 20.**

**88095. Educational and work experience requirements for classified positions.**

The governing board shall fix the duties of all positions a part of the classified service as required by Section 88009. The board may recommend the minimum educational and work experience requirements for classified positions to the personnel commission. Minimum qualification requirements shall be subject to approval of the commission.

In approving minimum educational and work experience requirements for classified positions, the commission shall insure that such requirements reasonably relate to the duties of the position, as established by the governing board, and that they will admit an adequate field of competition. No requirements may be approved which unduly or unreasonably restrict the field of competition.

The position duties shall be prescribed by the board and qualification requirements for the position class shall be prepared and approved by the commission, as required by this section, prior to issuance of an announcement calling for a competitive examination to fill position vacancies.

**88096. Appointments from eligibility lists where another language or driver's license required.**

Appointments may be made from other than the first two or three, as the case may be, applicants on the eligibility list when the ability to speak, read, or write a language in addition to English or possession of a valid driver's license is a requirement of the position to be filled. The recruitment bulletin announcing the examination shall indicate the special requirements which may be necessary for filling one or more of the positions in the class. Where such a position is to be filled, using the authority of this section, the appointment shall be made from among the highest two or three, as the case may be,



applicants on the appropriate eligibility list who meet the special requirements and who are ready and willing to accept the position. If there are insufficient applicants who meet the special requirements, the commission shall certify the top applicant or applicants plus those applicants who meet the special requirements, not to exceed two or three candidates, as the case may be.

**88097. Written notices regarding tests, vacancies, transfer opportunities, and other options.**

Written notices concerning tests, vacancies, transfer opportunities, and other selections of shifts, positions, assignments, classifications, or locations shall be posted at all work locations of employees who may be affected not later than 15 working days prior to the closing date of filing appropriate applications, together with the normal use of newspapers and bulletins for public notice for open or promotional vacancies.

Whenever the subject of these notices may affect a probationary or permanent classified employee who will not be reporting at his or her work location during periods when the employee is not normally required to work, such as Christmas, Easter, summer recesses, and other paid or unpaid leaves of absences, including vacations, and who has previously requested notification, the notices shall be mailed to the employee. However, the failure of an employee to receive a notice shall not invalidate any procedure, if, in fact, the notice was placed in the mail and postage paid.

This section shall not apply to any community college district that publishes and distributes to all work locations examination bulletins at least once each month, provided that records of employee requests for transfer and change of location are maintained and that the names of all candidates for transfer and change of location to a vacancy are certified to the appointing authority along with names of appropriate applicants from employment lists.

The personnel commission shall establish procedures for the maintenance of employee requests for transfer, change of location, change of shift, and notification of forthcoming examinations.

**88098. Reassignment of regular employee because of illness or injury.**

A regular employee who is determined by the governing board to be incapable of performing the duties of his or her class because of illness or injury may, at the discretion of the governing board, be assigned duties that he or she is capable of performing. The position to which the employee is assigned shall be subject to classification by the personnel commission, but the employee shall receive no increase in wage or salary because of his or her assignment to the position unless he or she is appointed from an eligibility list resulting from a competitive examination in the event that the position is classified and allocated to a higher wage or salary than that previously attained by the employee, he or she may be assigned to the position without competitive examination, but shall continue to receive the wage or salary of his or her former classification. If the position is classified and allocated to a lower wage or salary than that attained by the employee, he or she shall be paid the wage or salary appropriate to the position.

**88099. Examination for business manager.**

The commission shall, by rule, provide for an open competitive examination and a promotional examination to be held at the same time for the position of business manager or for any other single position class which it declares to be at or above the

level of business manager. It shall require that all educational and work experience requirements be developed to fit the needs of the position in such a manner that the position will attract competent and qualified applicants from within the classified service, among academic personnel, or other persons meeting the minimum requirements established for the position.

Such rule shall provide: (a) that all permanent employees of the district, classified and academic, who meet the established minimum qualifications, shall be eligible to compete in the examination as promotional candidates; (b) that promotional credits, including seniority credits, if any, shall be equally applicable to both classified and academic promotional candidates; (c) that eligibility lists resulting from such an open competitive and promotional examination shall be merged according to the order of the examination scores into a single eligibility list, after the scores of each candidate on the promotional list have been adjusted for promotional credits, including seniority credits, if any; and (d) that the examination for any such position shall not be construed to be an entrance level position examination.

#### **88100. Competition through promotional examination.**

The commission may by rule provide for the competition of academic employees of the governing board in promotional examinations for positions in the classified service.

#### **88101. Examination for certain positions.**

The commission shall, by rule, provide for an open competitive examination and a promotional examination to be held at the same time for the positions that existed or could be created, when the positions become available for competitive examination, under the provisions of subdivisions (m), (n), and (o) of former Section 13055 as those subdivisions existed prior to their repeal by action of the 1965 General Session of the Legislature.

The rule shall provide: (a) that all permanent employees of the district, classified and academic, who meet the established minimum qualifications, shall be eligible to compete in the examination as promotional candidates; (b) that promotional credits, including seniority credits, if any, shall be equally applicable to both classified and academic promotional candidates; (c) that eligibility lists resulting from such an open competitive and promotional examination shall be merged according to the order of the examination scores into a single eligibility list, after the scores of each candidate on the promotional list have been adjusted for promotional credits, including seniority credits, if any; and (d) that the examination for any such position shall not be construed to be an entrance level position examination.

#### **88102. Area eligibility lists.**

In any community college district which has geographical boundaries encompassing more than 200 square miles and which divides the area it serves into smaller areas for assignment of classified personnel, when an eligibility list is exhausted in one assignment area but there are available eligibles in another assignment area, an area eligibility list may be established for the assignment area in which the eligibility list is exhausted. The life of such new area eligibility list shall be one year. Seniority for the purpose specified in Section 88127 shall continue to be districtwide.

**88103. Conditions for certification for employment from open competitive eligibility list before exhaustion of promotional eligibility list.**

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 credits have been added.

**88104. Reclassification.**

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 three or more years may be reclassified with their positions by the personnel commission. When a portion of the positions within a class are reclassified to a higher class an incumbent who has a continuous employment record of three or more years in one or more of the positions being reclassified may be reclassified with his or her position as provided by personnel commission rule.

The basis for reclassification of the position must be a gradual accretion of duties and not a sudden change occasioned by a reorganization or the assignment of completely new duties and responsibilities. Determinations as to gradual accretion will be on the basis of guidelines provided by personnel commission rules.

An employee who has been reclassified with his or her position shall be ineligible for subsequent reclassification with his or her position for a period of at least three years from the initial action.

**88104.5. Notice of proposed classifications or reclassifications.**

No position classification or reclassification plan which would affect classified employees who are represented by a certified or recognized exclusive bargaining representative shall be adopted by the commission until the exclusive bargaining representative and the community college employer of the classified employees who would be affected have been given reasonable notice of the proposed classifications or reclassifications.

**88105. Limited-term employees.**

Whenever the appointing power requires the appointment of a person to a position, the duration of which is not to exceed six months, or, in case of an appointment in lieu of an absent employee, is not to exceed the authorized absence of that employee, he or she shall submit a request in which the probable duration of the appointment is stated. Eligible persons shall be certified in accordance with their position on the appropriate employment list and their willingness to accept appointment to such a position as limited-term employees. Limited-term employees shall be subject to those conditions affecting status and tenure during and after the employment as the commission may by rule determine.

**88106. Provisional appointments.**

When no eligibility list exists for a position in the classified service, an employee may receive provisional appointments which may accumulate to a total of 90 working days.

A 90-calendar-day interval shall then elapse during which the person will be ineligible to serve in any full-time provisional capacity. No person shall be employed in provisional capacities under a given governing board for a total of more than 126 working days in any one fiscal year, except that when no one is available on an appropriate eligibility list for a part-time position, as defined in Section 88076, successive 90 working days provisional appointments may be made to the part-time position for a total of more than 126 working days in any one fiscal year.

**88107. Provisional assignment; extension.**

The personnel commission may authorize the extension of a provisional employee's assignment for a period not to exceed 36 working days, if all of the following requirements are met:

(a) An examination for the class was completed during the first 90 working days of his or her provisional assignment.

(b) Evidence satisfactory to the personnel commission is presented indicating all of the following:

(1) That an adequate recruitment effort has been and is being made.

(2) That extension of the provisional assignment is necessary to carry on vital functions of the district.

(3) That the position cannot be satisfactorily filled by use of other employment lists or procedures.

**88108. Successive provisional appointments.**

Successive provisional appointments of 90 working days or less each may be made in any class in the absence of an appropriate eligibility list; provided, that continuous examination procedures for the class have been authorized by the commission. Such successive provisional appointments may be made and persons employed in temporary capacities under a given governing board for a total of more than six months in any one year. Such appointments may continue for the length of time for which they were made, but may not be extended if a certification can be made from an appropriate eligibility list. While this section is in effect, it shall supersede any other provisions of this article which are in conflict with this section, but only to the extent there is a conflict.

**88109. Emergency appointments.**

The appointing power may, to prevent the stoppage of public business when an actual emergency arises and persons on eligibility lists are not immediately available, make appointments for a period not to exceed 15 working days, in accordance with commission rule.

**88110. Combinations of successive eligibility lists.**

Combinations of successive eligibility lists may be made during their first year. Eligibles on lists established within the first year of the life of another list may be placed in the order of their relative excellence in the examination on the like list, if lists so merged have been promulgated under conditions and techniques which are sufficiently similar to preserve their competitive character.

**88111. Right to provide continuous examinations.**

The commission may by rule provide for the continuous examination of eligibles for classes of positions which the commission determines cannot be practicably filled by promotional examination only.

**88112. Questions to be asked candidates; no discrimination in appointment.**

No questions relating to political or religious opinions or affiliations, race, color, national origin or ancestry, sex, or marital status shall be asked of any applicant, or any candidate whose name has been certified for appointment, nor shall any discrimination be exercised therefor.

**88113. "Veteran".**

"Veteran" as used in this article means any person who has served in the United States armed forces in time of war, or national emergency declared by the President of the United States of America, and who has been discharged or released under conditions other than dishonorable, proof of which shall be submitted to the commission at the time of the examination.

"Armed forces" means the United States Air Force, Army, Navy, Marine Corps, or Coast Guard.

**88114. "Disabled Veteran".**

"Disabled veteran" as used in this article means any veteran, as defined in Section 88113, 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.

**88115. Additional credits for veterans' entrance examinations.**

In the case of all entrance examinations, 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 five points and disabled veterans shall be allowed an additional credit of 10 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 five points, or 10 points in the case of disabled veterans, is added.

**88116. Right to take equivalent examination for position placed within classified service while employee in military service, Military Reserve or National Guard.**

(a) Whenever, during the absence of an employee of a community college district or student body association operating under Sections 76060 to 76065, inclusive, in the active military service of the United States of America during any period of national emergency declared by the President of the United States of America, or during any war in which the United States of America is engaged, the position held by that employee at the time of his or her entrance into that military service is placed within the classified service of the district and an eligible list is established for that position through competitive examination, the employee shall, at his or her request made within six

months after leaving the active military service under honorable conditions, be given immediately an examination of substantially the same character and scope as the competitive examination through which the original eligibility list was established. The grade secured by that employee in that examination shall be deemed to be the grade the employee would have secured had he or she taken the competitive examination as a veteran, and the employee shall be placed on the original eligibility list accordingly with all the rights and privileges to which he or she would have been entitled had he or she had that place on the original eligibility list at the time of its establishment.

(b) Notwithstanding subdivision (a), any member of the Military Reserve or the National Guard who is called to active duty, either voluntarily or involuntarily, during any period of national emergency declared by the President of the United States of America, or during any war in which the United States of America is engaged, shall be entitled to any rights, in addition to the rights accorded under subdivision (a), that are accorded that member under the federal Veterans' Reemployment Rights Law or any other applicable provision of federal law.

**88117. Reemployment and promotional examination preference of persons laid off; voluntary demotions or reduction in time.**

Persons laid off because of lack of work or lack of funds are eligible to reemployment for a period of 39 months and shall be reemployed in preference to new applicants. In addition, such persons laid off have the right to participate in promotional examinations within the district during the period of 39 months.

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff or to remain in their present positions rather than be reclassified or reassigned, shall be granted the same rights as persons laid off and shall retain eligibility to be considered for reemployment for an additional period of up to 24 months; provided, that the same tests of fitness under which they qualified for appointment to the class shall still apply. The personnel commission shall make the determination of the specific period of eligibility for reemployment on a class-by-class basis.

Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall be, at the option of the employee, returned to a position in their former class or to positions with increased assigned time as vacancies become available, and without limitation of time, but if there is a valid reemployment list they shall be ranked on that list in accordance with their proper seniority.

**88118. Repealed by Stats. 1984, c. 521, section 21.**

**88119. Duration of eligible lists.**

Eligibility lists shall be established for a period of not less than one year except that when a list is exhausted for appointments to current vacancies, through use and eligibles being unavailable, the commission may, upon the recommendation of the officer charged with certifying eligibles, and after due notice to eligibles who may have made themselves unavailable for appointment, terminate it before a year has expired.

Eligibility lists may be established for a period of six months upon the approval of the personnel commission so long as the six months' duration of such a list is noted in the recruitment bulletin announcing the examination. If a list is exhausted for appointments to current vacancies, through use and eligibles being unavailable, the commission may, upon the recommendation of the officer charged with certifying eligibles, and after due

notice to eligibles who may have made themselves unavailable for appointment, terminate it before the expiration date.

A list may be extended for an additional period of one year or less in the discretion of the commission.

**88120. Probationary period for entry into permanent classified service.**

A person who has served an initial probationary period in a class not to exceed six months or 130 days of paid service, whichever is longer, as prescribed by the rules of the commission shall be deemed to be in the permanent classified service, except that the commission may establish a probationary period in a class not to exceed one year for classes designated by the commission as executive, administrative, or police classes. No employee shall attain permanent status in the classified service until he or she has completed a probationary period in a class. In any case the rules of the commission may provide for the exclusion of time while employees are on a leave of absence. The rights of appeal from disciplinary action prior to attainment of permanent status in the classified service shall be in accordance with Section 88124.

**88121. Demotion and removal from permanent classified service.**

No person in the permanent classified service shall be demoted or removed except for reasonable cause designated by rule of the commission as detrimental to the efficiency of the service. This section shall not be construed to prevent layoffs for lack of work or lack of funds.

**88122. Additional causes for suspension or dismissal of employees in classified service.**

In addition to any causes for suspension or dismissal which are designated by rule of the commission, employees in the classified service shall be suspended and dismissed in the manner provided by law for any one or more of the following causes:

- (a) Knowing membership by the employee in the Communist Party.
- (b) Conduct specified in Section 1028 of the Government Code.

**88123. Written charges for suspension, demotion, or dismissal; provisions for suspension pending determination of sex offense or narcotics offense.**

For reasonable causes, an employee may be suspended without pay for not more than 30 days, except as provided in this section, or may be demoted or dismissed. In such case, the personnel director, shall within 10 days of the suspension, demotion, or dismissal, file written charges with the commission and give to the employee or deposit in the United States registered mail with postage prepaid, addressed to the employee at his or her last known place of address, a copy of the charges.

Whenever an employee of a community college district is charged with the commission of any sex offense, defined in Section 87010, or any narcotics offense, as defined in Section 87011, or a violation of Sections 11357 to 11361, inclusive, 11363, 11364, or 11377 to 11382, inclusive, insofar as such sections relate to, any controlled substances in paragraph (4) or (5) of subdivision (b) of Section 11056, or any controlled substances in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, of the Health and Safety Code by complaint, information, or indictment filed in a court of competent jurisdiction, the governing board of the district may immediately suspend the employee for a period of time extending for not more than

10 days after the date of the entry of the court judgment. However, the suspension may be extended beyond such 10-day period in case the governing board gives notice within such 10-day period that it will dismiss the employee 30 days after the service of the notice, unless the employee demands a hearing. An employee so suspended shall continue to be paid his or her regular salary during the period of the suspension if and during such time as he or she furnishes to the district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the district the amount of salary so paid to him or her during the period of the suspension in case the employee is convicted of such charges, or the employee does not return to service after such period of suspension. If the 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 or her full compensation during the period of the suspension; provided the employee returns to service after such period of suspension.

**88124. Appeal by employee from suspension, demotion or dismissal.**

Any employee in the permanent classified service who has been suspended, demoted, or dismissed may appeal to the commission within 14 days after receipt of a copy of the written charges by filing a written answer to the charges. Such an appeal is not available to an employee who is not in the permanent classified service except as provided by rules of the commission. An employee in the permanent classified service who has not served the time designated by the commission as probationary for the class may be demoted to the class from which promoted without recourse to an appeal or hearing by the commission, except as otherwise provided by rules of the commission; and provided, that such demotion does not result in the separation of the employee from the permanent classified service. Nothing in this section shall operate to alter the protections guaranteed under Section 88128.

**88125. Investigation and hearing on appeal.**

The commission shall investigate the matter on appeal and may require further evidence from either party, and may, and upon request of an accused employee shall, order a hearing. The accused employee shall have the right to appear in person or with counsel and to be heard in his or her own defense. The decision shall not be subject to review by the governing board.

**88126. Reinstatement and employee compensation; determination of terms and conditions; notification.**

If the commission sustains the employee, it may order paid all or part of his or her full compensation from the time of suspension, demotion, or dismissal, and it shall order his or her reinstatement upon terms and conditions that it deems appropriate. The commission may modify the disciplinary action, but may not make the action more stringent than that approved by the board. In addition, the commission may direct any other action that it finds necessary to effect a just settlement of the appeal, including, but not limited to, compensation for all or part of the legitimate expenses incurred in pursuit of the appeal, seniority credit for off-duty time pending reinstatement, transfer or change of location of the employee, and expunction from the employee's personnel record of disciplinary actions, cause, and charges that were not sustained by the commission. Upon receipt of the commission's written decision, the board shall comply



with its provisions. When the board has fully complied with the commission's decision, it shall so notify the commission in writing.

**88127. Order of layoff and reemployment; length of service.**

Classified employees shall be subject to layoff for lack of work or lack of funds. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first. Reemployment shall be in the reverse order of layoff.

For purposes of this section, for service commencing or continuing after July 1, 1971, "length of service" means all hours in paid status, whether during the school year, a holiday, recess, or any period that a school is in session or closed, but does not include any hours compensated solely on an overtime basis as provided for in Section 88027. Nothing in this section shall preclude the governing board of a community college district from entering into an agreement with the exclusive representative of the classified employees that defines "length of service" to mean the hire date.

If a governing board enters into an agreement with the exclusive representative of classified employees that defines "length of service" to mean the hire date, the governing board may define "length of service" to mean the hire date for a classification of employee not represented by any exclusive bargaining unit.

Nothing in this section shall preclude the granting of "length of service" credit for time spent on unpaid illness leave, or unpaid industrial accident leave. In addition, for military leave of absence, "length of service" credit shall be granted pursuant to Section 88116.

"Hours in paid status" shall not be interpreted to mean any service performed prior to entering into a probationary or permanent status in the classified service of the district except service in restricted positions as provided in this chapter.

**88128. Reinstatement of permanent classified employees after resignation.**

Any permanent classified employee of a community college district, who voluntarily resigns from his or her permanent classified position, may be reinstated or reemployed by the governing board of the district, within 39 months after the employee's last day of paid service and without further competitive examination, to a position in his or her former classification as a permanent or limited-term employee, or as a permanent or limited-term employee in a related lower class or a lower class in which the employee formerly had permanent status.

If the governing board elects to reinstate or reemploy a person as a permanent employee under this section, it shall disregard the break in service of the employee and classify him or her as, and restore to the employee all of the rights, benefits and burdens of, a permanent employee in the class to which he or she is reinstated or reemployed.

**88129. Certification for payment; appointments in violation of article or rules.**

No warrant shall be drawn by or on behalf of the governing board of any district for the payment of any salary or wage to any employee in the classified service unless the assignment bears the certification of the personnel director that the person named in the assignment has been employed and assigned pursuant to this article and the rules of the commission.

Whenever the commission, after a public hearing, finds that any appointment has been made in violation of this article or the rules of the commission as they apply to examination procedures, the commission may order that no salary warrant shall thereafter be drawn to the employee so appointed, for services rendered after the date of said order. Any violation of this article or the rules of the commission as they apply to examination procedures shall constitute grounds for the dismissal of the employee or employees guilty of such violation.

**88130. Powers of commission in conducting hearings, and inspecting records of governing board.**

The commission may conduct hearings, subpoena witnesses, require the production of records or information pertinent to investigation, and may administer oaths. It may, at will, inspect any records of the governing board that may be necessary to satisfy itself that the procedures prescribed by the commission have been complied with. Hearings may be held by the commission on any subject to which its authority may extend as described in this article.

**88131. Hearings or investigations by hearing officer.**

The commission may authorize a hearing officer or other representative to conduct any hearing or investigation which the commission itself is authorized by this article to conduct. Any such authorized person 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 depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the **Code** of Civil Procedure. The commission may instruct such authorized representative to present findings or recommendations. The commission may accept, reject or amend any of the findings or recommendations of the said authorized representative. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation or upon the results of such supplementary hearing or investigation as the commission may order.

The commission may employ by contract or as professional experts or otherwise any such hearing officers or other representatives and may adopt and amend such rules and procedures as may be necessary to effectuate this section.

**88132. Legal counsel for the commission; duties; refusal to aid or represent.**

The legal counsel of the governing board shall aid and represent the commission in all legal matters. If the legal counsel does not respond to a written request by the commission for aid or representation within 15 working days of receipt of the written request, the counsel is deemed to have refused to aid or represent the commission in that matter.

The legal counsel shall refuse to represent the commission in circumstances in which the counsel knows, or has reason to know, that at the time the request is made a conflict exists between the interests of the commission and the interests of the governing board or the community college district.

If the legal counsel refuses to aid or represent the commission in a legal matter, the commission may employ its own attorney, and the reasonable cost thereof shall constitute a legal charge against the general funds of the community college district.

**88133 to 88135. Repealed by Stats.1977, c. 36, sections 646 to 648, eff. April 29, 1977, operative April 30, 1977.**

**88136. Violation of article a misdemeanor; other unlawful acts.**

Any person who willfully, or through culpable negligence, violates this article is guilty of a misdemeanor. It is also unlawful for any person to do any of the following:

(a) Willfully, by himself or herself or in cooperation with another person, to defeat, deceive, or obstruct any person with respect to his or her right of examination, application, or employment under this article or commission rule.

(b) Willfully and falsely, to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under this article or commission rule, or to aid in so doing, or to make any false representation concerning the same or the person examined.

(c) Willfully, to furnish to any person any special or secret information regarding contents of an examination for the purpose of either improving or injuring the prospects or chances of any person examined, or to be examined under this article or commission rule.

**88137. Provisions for inclusion of district employees in merit system of city and county.**

In every community college district coterminous with the boundaries of a city and county, employees employed in nonacademic positions shall be employed, if the city and county has a charter providing for a merit system of employment, pursuant to the provisions of the charter providing for the system and shall, in all respects, be subject to, and have all rights granted by, those provisions; provided, however, that the governing board of the district shall have the right to fix the duties of all of its employees.

**88138. Petition to terminate merit system; open forum.**

A merit (civil service) system within a community college district may be terminated by one of the following methods:

(a) If the governing board of a community college district, receives a written petition of qualified electors not less in number than 10 percent of the number voting in the last election for a member of the board calling for the termination of the merit (civil service) system and the system has been in operation for not less than five years, the board shall order the county superintendent of schools to place the question of termination of the system on the ballot at the next regular governing board member election, or the next primary or general election in a general election year, whichever is the earlier after receipt by the county superintendent of schools.

The statement of purpose of the election shall read:

"Shall the merit (civil service) system for school employees not employed as faculty or educational administrators, as provided for in Article 3 (commencing with Section **88060**) of Chapter 4 of Part 51 of Division 7 of Title 3 of the **Education Code** of the State of California, and which has been in operation for at least five years, be terminated by the \_\_\_\_\_ Community College District of \_\_\_\_\_ County (or counties, where appropriate) on \_\_\_\_\_ (date to be specified by board)?"

The petition calling for the election, to be valid, shall contain the statement of purpose for the election as contained in this section.

(b) If the governing board of a community college district receives a written petition from 40 percent of the classified employees entitled to vote calling for the termination of the merit (civil service) system and the system has been in operation for not less than five years or has been imposed pursuant to the terms of Section 45119 or 45120, the governing board shall conduct an election by secret ballot of its classified personnel to determine whether or not they desire to have the merit system terminated within the district. The ballot shall read: "Shall the merit (civil service) system for classified employees be terminated in the \_\_\_\_\_ (name of community college district) as of (termination date)?" As used in this subdivision, "classified employees" means all personnel who are a part of the classified service who are appointed in accordance with Section 88091.

In order to be valid, the petition calling for the termination of the merit (civil service) system must be submitted to the governing board of a community college district within 90 days after the date that the notice for the circulation of the petition was filed with the governing board of the community college district. The election shall be held during the regular academic year and shall be held no earlier than 45 days and no later than 180 days after the date that the petition was submitted to the governing board.

If the merit system was adopted pursuant to Section 88057, classified employees entitled to vote in an election pursuant to this subdivision shall be limited to those classified employees who reside in the district.

(c) The governing board of a community college district shall devise an identification system designed to protect against fraud in the balloting process. In addition, the governing board shall appoint a three-member tabulation committee consisting of one member of the governing board, one member of the personnel commission of the community college district, and one member who shall be a classified employee of the community college district. It shall be the responsibility of the tabulation committee to canvass the election ballots and to certify the results of the election to the governing board at the next regular meeting of the governing board following the completion of the tabulation of the election results by the committee.

(d) Notwithstanding any other provision of law, the governing board of a community college district shall not be required to provide release time for classified personnel to vote in an election conducted pursuant to subdivision (b). The governing board shall not conduct an election under subdivision (b) more than once in any two-year period.

(e) It shall be unlawful for a public school employer and the exclusive representative of the classified employees of a community college district to include the subject of the termination of the merit (classified service) system within the scope of representation.

(f) Members of the classified service shall be provided an adequate and ample opportunity to be informed of the arguments in favor of and in opposition to the termination of the merit (classified service) system prior to the conducting of an election called pursuant to subdivision (b). That opportunity shall include an open forum during which proponents of, and opponents to, the termination of the merit (civil service) system shall be permitted to debate the issue.

### **88139. Procedure upon successful election to terminate merit system.**

If the majority of the qualified electors vote to terminate the merit system in a community college district, or if the majority of the classified employees vote to terminate the merit system in a community college district, the personnel commission shall cease to function on the date specified in the election and the law pertaining to merit system districts shall cease to have any force or effect in that district.

Simultaneously, with the termination of the merit system, the governing board shall adopt rules and regulations relating to classified school employees as required by Section 88013.

Notwithstanding an action to terminate the merit system in a community college district, the provisions of Section 88051, 88053, and 88054 shall be applicable at any time after at least two years have elapsed after the system has ceased to operate.

**Chapter XVII**  
**Merit System Act**

<b><u>Section</u></b>	<b><u>Title</u></b>
88060	Personnel commission and director.
88061	Power of governing board over persons in nonacademic positions.
88063	Personnel commission; increase or decrease in membership; expenses
88063.5	Community college districts formerly governed by boards of identical personnel; rights of nonacademic employees.
88064	Qualifications for membership on personnel commission.
88065	Appointment of members of personnel commission.
88066	Appointment procedure; subsequent vacancies; discharge of duties until successor appointed.
88067	Terms of office.
88068	Vacancies.
88069	Appointment procedure in certain community college districts; subsequent vacancies; discharge of duties until successor appointed.
88070	Compensation of members of personnel commission.
88071	Compensation of members of personnel commission in community college district.
88072	Office accommodation of personnel commission.
88073	Annual budget of personnel commission.
88074	Repealed.
88075	Expenditure of funds for staff training.

- 88076 Establishment of classified service; definitions; positions excluded.
- 88077 Temporary positions excluded from classified service.
- 88078 Exemptions from classified service; community representatives in advisory or consulting capacities.
- 88079 "Restricted" employees classification.
- 88079.1 Repealed.
- 88080 Power of personnel commission to prescribe, amend and interpret rules.
- 88081 Subject of rules.
- 88082 Printing and distribution of rules.
- 88083 Powers and duties of personnel commission regarding apprenticeships.
- 88084 Appointment by commission of personnel director and other employees; supervision.
- 88085 Contracting for personnel director.
- 88086 Duties of personnel director; freedom from prejudice of bias; restriction on advice or recommendation regarding certain disciplinary action appealed.
- 88086.5 Provisions applicable to noncertificated employees applicable to districts with merit system.
- 88087 Salary schedule for the classified service.
- 88088 Persons deemed in permanent classified service.
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- 88090 Rights of employees serving in nonacademic positions by virtue of change in law.

- 88091 Vacancies in classified service; promotional applicants; exemptions.
- 88092 Examinations; examination boards; membership; recordings.
- 88093 Retention and availability of examination records; review and protests.
- 88094 Repealed.
- 88095 Educational and work experience requirements for classified positions.
- 88096 Appointments from eligibility lists where another language or driver's license is required.
- 88097 Written notices regarding tests, vacancies, transfer opportunities, and other options.
- 88098 Reassignment of regular employee because of illness or injury.
- 88099 Examination for business manager.
- 880100 Competition through promotional examination.
- 880101 Examination for certain positions.
- 88102 Area eligibility lists.
- 88103 Conditions for certification for employment from open competitive eligibility lists before exhaustion of promotional eligibility list.
- 88104 Reclassification.
- 88104.5 Notice of proposed classifications or reclassifications.
- 88105 Limited-term employees.
- 88106 Provisional appointments.
- 88107 Provisional assignment; extension.



- 88108 Successive provisional appointments.
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- 88117 Reemployment and promotional examination preference of persons laid off; voluntary demotions or reduction in time.
- 88118 Repealed.
- 88119 Duration of eligible lists.
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- 88122 Additional causes for suspension or dismissal of employees in classified service.
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