

Personnel Commission

Merit System Rules and Regulations For Classified Employees



STATEMENT OF POLICY

The Personnel Commission under State law is charged with the authority and responsibility for establishing rules pertaining to the administration of the classified service. Education Code Section 45260, states "the Commission shall prescribe, amend and interpret 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." It is obvious, therefore, that the rules in the following pages are the backbone of the merit system for the classified service. The Personnel Commission has used as its guiding principle in approving these rules, the spirit of the law which forms an impartial body free from bias or the influence of any special interest group and which is ultimately responsible to see that all matters affecting the working lives of employees in the classified service are handled in a just manner.

These rules have been adopted to satisfy all provisions of the Education Code and related administrative policy. Although the rules are tailored to the needs of the Santa Cruz County Office of Education, we readily recognize that as rules are applied there will be need for revision, amendment and addition. The following rules have been reviewed by the recognized employee organizations and the administration prior to adoption by the Personnel Commission. However, the Personnel Commission is open to recommendations as to its operation and hereby charges its Human Resources Director with the responsibility to assure that all employees who request to be heard by the Commission receive consideration.

The primary obligation of the Personnel Commission is to the public. To implement this obligation, the Personnel Commission should do all within its power to recruit and test applicants for positions within the Santa Cruz County Office of Education in such a manner as to obtain the best possible employees for the County Office.

The major categories of responsibility of the Personnel Commission are:

1. Prescribe rules and regulations pertaining to the administration of the classified personnel merit system.
2. Classify all members of the classified service.
3. Recruit in a manner which will obtain the best possible applicants.
4. Screen and qualify applicants for examination.
5. Conduct an examination program which is fair and equitable.
6. Certify from eligibility list, applicant for employment.
7. Adjudication of employee appeals of administrative disciplinary action or challenges to examination.

Commissioner, Larry Lane
Commissioner, James Rapoza
Commissioner, Lynn Miller

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CHAPTER 1 DEFINITIONS AND APPLICATION OF RULES

1.100 DEFINITIONS

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

ABOLISHMENT OF POSITION: A position within a classification that no longer exists as a result of action by the Superintendent to reduce or eliminate the duties required of the position.

ACT: The Act applying the Merit System to classified employees in the County Office of Education. It shall include all of the provisions of Education Code 45240-45320 of the State of California applying to the “Merit System” for classified employees that have adopted the Merit System.

ALLOCATION: The official placing of a position in a given class.

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

APPEAL: A protest by an employee regarding an administrative action, actually or potentially detrimental to an applicant, eligible, or employee.

APPLICANT: A person who has filed an application for employment to take a merit-system examination.

APPOINTEE: An individual selected from the eligibility list that has accepted an assignment but has not yet begun employment.

APPOINTING AUTHORITY or POWER: The County Office of Education’s Superintendent of Schools.

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

ASSIGNMENT: The placement of an appointee in a position. Also, the position in which the employee is placed.

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

CANDIDATE: A person who has competed in one or more portions in the selection process of a merit-system examination.

CERTIFICATION: The submission by the Human Resources Director of the names of eligibles from an appropriate list or from some other source of eligibility to the appointing power, or to the department which selects employees prior to approval of the appointing power.

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

CLASS: A group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be used to designate each position allocated to the class; substantially the same requirements of education, experience, knowledge, and ability are demanded of incumbents; substantially the same tests of fitness may be used in choosing qualified appointees; and the same salary range may be applied with equity. Though defined as a group of positions, a class may sometimes consist of just one position when no equivalent positions exist in the service.

CLASS SPECIFICATION: A formal statement of the duties and responsibilities of the positions allocated to the class, illustrated by examples of duties and setting forth minimum qualifications and requirements of positions in the class sometimes referred to as job description.

CLASSIFICATION: The act of placing a position in a class.

CLASSIFIED SERVICE: All positions in the County Office of Education service to which the Act applies.

COMMISSION: (see Personnel Commission).

CONTINUOUS TESTING: A procedure authorized by the Personnel Commission for the frequent testing of applicants for designated classes.

COUNTY OFFICE OF EDUCATION or OFFICE: Office of the Santa Cruz County Superintendent of Schools.

DEMOTION: A movement of an employee from a position in one class to a position in another class with a lower salary range.

DISCHARGE or DISMISSAL: Separation from service for cause.

DUAL CERTIFICATION: A special procedure which provides for certification, in specified cases, from an open list while a promotional list exists. See Rule 4.206.D.

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 a competitive examination.

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

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

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

EMPLOYER: The County Superintendent of Schools is the employer for the Santa Cruz County Office of Education (Board Policy 2112).

EMPLOYMENT LIST: A list of names from which certification may be made. Includes eligibility lists, reemployment lists, and lists of persons who wish to transfer, demote, be reinstated or reemployed after resignation, or be restored after voluntary demotion or reduction to limited-term status.

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

CLOSED SESSION: A meeting closed to the public which is called by the members of the Personnel Commission to discuss specific matters prescribed by the Brown Act.

EXHAUSTED LIST: A list of eligibles from which it is impossible to fill a regular full-time or part-time vacancy. A list may be considered exhausted when only two eligibles remain. A list may be exhausted for a part-time position, yet remain in effect for full-time positions.

FAMILY: A group of classifications related by occupational field, as set forth in the list of classes promulgated by the Personnel Commission.

GOVERNING BOARD or BOARD: The Santa Cruz County Board of Education.

GRIEVANCE: A grievance is an allegation that the grievant has been directly affected by a misinterpretation, misapplication, or violation of these Merit Rules.

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

HEARING OFFICER: A qualified person employed by the Personnel Commission to hear and make recommendations on appeals from disciplinary action for non-medical reasons.

HIRE DATE: Date of original or most recent employment with the Santa Cruz County Office of Education.

INCUMBENT: An employee assigned to a position and currently serving in or on leave from that position.

INTERVIEW: Part of the selection process, usually the final portion of an examination, for the purpose of evaluating education, experience and personal qualifications of the candidates (known as an oral examination). Also, the meeting between an eligible candidate and a County Office of Education representative to discuss possible appointment to a specific vacancy is known as a selection interview.

INVESTIGATION: A fact-finding procedure related to an appeal or complaint. An investigation is less formal than a hearing.

LAYOFF: Separation from a permanent position because of lack of work or lack of funds, or because the position has been abolished or reclassified

LIMITED TERM: A term used in the Education Code to designate employment for periods not to exceed six months, or employment of a temporary employee during the authorized absence of a permanent employee for up to twelve months plus training time.

LONGEVITY: Automatic salary increases for regular employees based on length of service.

MERIT SYSTEM: A system of personnel management in which merit and fitness govern each individual's selection, progress and retention in the Classified service.

OPEN EXAMINATION: An examination which is not restricted to persons who are current permanent and probationary employees of the County Office of Education; i.e., may be taken by a person otherwise qualified.

PERMANENT EMPLOYEE: In reference to the Santa Cruz County Office of Education employment status, an employee who has completed a probationary period in a class in the classified service. In reference to employment status in a specific class, an employee who has completed a probationary period for that class, or who entered the class by transfer, demotion, or reinstatement/reemployment without serving a probationary period.

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 COMMISSION: The three member governing body established pursuant to the merit system provisions of the Education Code.

POSITION: A group of duties and responsibilities assigned by competent authority requiring the full or part-time employment of one person on a permanent or limited-term basis.

PROBATIONARY PERIOD: The trial period as established by the Personnel Commission immediately following an original or promotional appointment to a permanent position from an eligibility list (see Merit Rule 6.102).

PROMOTION: A change in the assignment of an employee from a position in one class to a position in another class with a higher maximum salary rate.

PROMOTIONAL LIST: A list of eligibles resulting from an examination limited to qualified regular employees only.

PROVISIONAL APPOINTMENT: A temporary appointment made in the absence of an appropriate eligibility list, not to exceed ninety working days except in specified circumstances.

PROVISIONAL EMPLOYEE: An employee employed under a provisional appointment.

RANK: Position on an open or promotional eligible list. All candidates with the same final score in the examination process are considered to have the same rank. To be appointed, a candidate must normally be in one of the top three ranks on the eligible list for the position.

RECLASSIFICATION: The change of a position or positions from one class to placement into another, based on a gradual change in duties and/or responsibilities.

REEMPLOYMENT LIST: A list of names of persons who have been laid off from permanent positions by reason of lack of work, lack of funds, or abolishment or reclassification of position, or other reasons specified in these rules, and who are eligible for reemployment without examination in their former class for a period of 39 months, arranged in order of their right to reemployment. A reemployment list may also be established when an employee exhausts all leave privileges due to illness or injury (see Merit Rule 5.104.1).

REGULAR EMPLOYEE: An employee 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 lower related class.

RESIGNATION: A voluntary statement, preferably in writing, from an employee to be terminated from one or all of their assignments.

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

RESTRICTED POSITION: A position in which the employee is part of the classified system but is not eligible for certain rights of a regular employee.

RULE OF THREE RANKS: The scope of choice available to an appointing power in making a selection from an eligibility list. It consists of those eligibles having any of the three highest scores who are ready and willing to be appointed to a specific position.

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

SALARY STEP: A specific location in a salary range, not the dollar amount.

SALARY SURVEY: The collection of current wage and salary data for the purpose of determining the prevailing wage for certain types of work in public education, private industry and/or other public agencies. Also, the report of such data.

SALARY RANGE: A series of consecutive salary steps that comprise the rates of pay for a classification.

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

SELECTION INTERVIEW: As a result of the examination process, the meeting between an eligible candidate and a County Office of Education representative to discuss possible appointment to a specific vacancy is known as a selection interview.

SENIORITY: Status secured by length of service. Used for determining order of layoff, as well as for certain informal purposes.

SEPARATION: Termination of an individual's employment.

SICK LEAVE: Sick leave is the authorized absence of an employee because of: 1) illness or injury or exposure to contagious disease; 2) Visit to a licensed medical practitioner for examination, treatment, consultation or therapy.

SIGNIFICANT OTHER: "Significant other" shall mean a person (of either sex) who:

- a. resides and shares the common necessities of life with the employee;
- b. is not married to anyone;
- c. is not related by blood to the employee closer than would bar marriage in the State of California;
- d. is mentally competent to consent to a contract; and
- e. signs a declaration that they are the employee's sole significant other, meets all other requirements set forth above, and agrees to notify the Santa Cruz County Office of Education if there is a change in circumstances attested to.

In order for employees to change the designation of their significant other, at least six (6) months must have passed since they have filed a statement of termination of the previous significant other relationship.

SUBSTITUTE EMPLOYEE: An employee occupying a permanent position during the absence of the incumbent.

SUSPENSION: An enforced absence of an employee without pay for disciplinary purposes or pending investigation of charges made against an employee.

TEMPORARY: Employment on a basis other than permanent or probationary; length of employment is for a limited term or provisional.

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

VETERAN'S PREFERENCE: Five additional points added to a passing score in entrance examinations, for military or related service rendered during time of war or national emergency. An additional five points is added for disabled veterans.

WAIVER: The voluntary relinquishment by an eligible of any right to consideration for appointment from an eligibility list to one or more position locations or for a specific or unlimited period of time not to exceed the limited duration of the eligibility list.

WORK EXPERIENCE STUDENT: Students enrolled in recognized Work Experience programs who participate in the instructional programs maintained by the Santa Cruz County Office of Education.

Y-RATE: When the tasks of a position have decreased or changed to such an extent that the salary range of the position would be decreased, the employee in such a position would be placed on a Y-rated salary. The employee will remain at the salary being received when the position was Y-rated until such a time as the step and range of the newly-rated position is equal to or greater than the Y-rate being received. The employee would then be placed on the regular salary schedule.

1.200 APPLICATION OF RULES

- 1.201 **Statutory Authority for These Rules:** The rules contained herein are established pursuant to the authority of the Personnel Commission under California Education Code Sections 45260, 45261 and other provisions governing the Merit System Act in the Education Code. Except for those matters subject to negotiating under the provision of Government Codes Sections 3540 through 3549 inclusive and covered by lawful collective bargaining agreements, these rules and regulations provide for the policies and procedures to be followed by the administration as they pertain to the classified service.

It shall be the policy of the Commission that no rule or amendment which would affect classified employees who are represented by a recognized exclusive bargaining representative shall be adopted by the Commission until the exclusive bargaining representative and the public school employer or the classified employees who would be affected have been given reasonable notice of the proposal.

- 1.202 **Interpretation and Application of Rules:** The Commission recognizes that no set rules can 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 superceded because of the special circumstances of particular cases. The Commission is open to responsible suggestions to amend the rules with prospective applications; however, no rule amendment or new rule shall have retroactive applicability.
- 1.203 **Terminology:** Singular terms shall be construed to include the plural; the plural terms shall be construed to include the singular.
- 1.204 **Effect of Data Contained in Addendum to Rules:** The salary schedule and related data, class placement on the salary schedule, classification plan, job descriptions, and other written material contained in the addendum to these rules are to be interpreted as having the same force and effect as Commission rules.
- 1.205 **Printing and Distribution of Rules:** The rules of the Commission shall be printed and/or made available electronically to each school site, office and permanent worksite where employees report. A loan copy will be available through the Classified Personnel Office.

Reference: Education Code 45262

1.206 **Violation of the Education Code:**

Reference: Education Code 45317

Section 45317 of the Education Code is as follows: Violation of Article a Misdemeanor; Other Unlawful Acts 45317. Any person who willfully or through culpable negligence violates any of the provisions of this article is guilty of a misdemeanor. It is also unlawful for any person:

- A. Willfully by themselves or in cooperation with another person to defeat, deceive, or obstruct any person with respect to their 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 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.

CHAPTER 2

THE PERSONNEL COMMISSION

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CHAPTER 2 THE PERSONNEL COMMISSION

2.100 ORGANIZATION OF COMMISSION

2.101 **Qualifications for Appointment:**

Reference: Education Code 45244

To be eligible for appointment or reappointment to the Commission, a person shall:

- A. Be a registered voter and resident within the territorial jurisdiction of the Santa Cruz County Office of Education, and
- B. Be a known adherent to the principle of the merit system.

No member of the governing board of any school district or the Santa Cruz County Office of Education shall be eligible for appointment, reappointment, or continuance as a member of the Commission. During the term of service, a member of the Commission shall not be an employee of the Santa Cruz County Office of Education.

2.102 **Appointment and Terms:**

Reference: Education Code 45245, 45246, 45247 and 45248

- A. One member of the Commission shall be appointed by the Santa Cruz County Board of Education, and one member, nominated by the classified employees of the Santa Cruz County Office of Education, shall be appointed by the Santa Cruz County Board of Education. Those two members shall, in turn, appoint the third member.

As used in this section, "classified employees" shall mean an organization of classified employees which represents the greatest number of classified employees of the Santa Cruz County Office of Education as determined by the Board.

- B. By law, the term of each Commissioner is for three years and expires at noon, December 1st. The term of one Commissioner expires each year. On or about August 1 of each year, the Human Resources Director shall notify the County Board of Education of the name and home address of the Commissioner whose term will expire, and whether or not that Commissioner will accept reappointment. The notification shall also list the appointing authority and indicate that the Board must follow the Provisions of Education Code Sections 45245, 45246, and 45248.

2.103 **Compensation of Members:**

Reference: Education Code 45250

The Santa Cruz County Board of Education may authorize payment to members of the Commission in an amount not to exceed fifty dollars (\$50) per meeting and not to exceed two hundred and fifty dollars (\$250) per month.

2.104 **Officers:**

At its first meeting following December 1 of each year, the Commission shall elect one of its members as Chairperson and another member as Vice Chairperson to serve a term of one year or until their successors are duly elected.

2.105 **Quorum and Majority:**

Two members shall constitute a quorum for any regular or special meeting of the Commission. The affirmative vote of two members shall be necessary to any action.

2.200 MEETINGS

2.201 **Regular Meetings:**

Reference: Government Code 54954.2

At its first meeting following December 1 of each year, the Commission shall set their regular monthly meeting date and time. Subject to cancellation or proper change, the Commission shall meet on the regular meeting date. When the regular meeting date falls on a holiday, the Commission shall meet on the next succeeding business day, unless at a prior regular meeting it designates some other day for its meeting.

At least 72 hours before a regular meeting, the Commission shall post an agenda containing a brief general description of each item of business. A copy of the agenda shall be posted on the Commission's official bulletin board, accessible to members of the public. The notice shall specify the time and place of the meeting.

In cases of emergency, the Commission may meet at some other time and/or place, provided that at least 24 hours notice is given to all Commissioners and to employee and administration representatives and posted on the Commission's official bulletin board.

2.202 **Adjourned Regular Meetings:**

Reference: Government Code 54955

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

2.203 **Special Meetings:**

Reference: Government Code 54956

Special meetings may be called at any time by the Chairperson and shall be called upon the written request of any two members. Written notice shall be delivered personally or by mail to each member of the Commission. Notice must also be given to each of the following who have filed written requests for such notice: each local newspaper of general circulation, radio or television station, and recognized employee or other organization. Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice. A copy of the notice shall be posted on the Commission's official bulletin board, accessible to members of the public. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting by the Commission.

2.204 **Public Meetings:**

Reference: Government Code 54954 & Merit Rule 2.205

- A. All regular and special meetings of the Commission shall be open and public, and all persons shall be permitted to attend any meeting of the Commission, except as provided in Rule 2.205.
- B. Individual employees, employee organizations, and other interested parties may submit their written views on any matter before the Commission and will be provided reasonable opportunity to present their views orally. The Commission will consider their comments and recommendations prior to arriving at a course of action.
- C. Any employee may tape that part of the meeting dealing with their particular problem. An official tape will be made of the meeting. It will be available to any employee to review under the supervision of the Human Resources Director that part of the tape which concerns the employee.

2.205 Closed Sessions:

Reference: Government Code 54954.5, 54957.1 & Merit Rule 2.204A

The Commission may hold closed sessions for only the following reasons, and in accordance with Government Code section 54954.5:

- A. Conference with legal counsel for existing litigations or anticipated litigation
- B. Liability claims
- C. Threat to public services or facilities
- D. Public employee appointment
- E. Public employment
- F. Public employee performance evaluation
- G. Public employee discipline/dismissal/release
- H. Case review/planning
- I. Charge or complaint involving information protected by Federal law

The Commission shall not, where practicable, consider any matter in closed session relating to an employee unless the employee has been notified in writing ten days prior to the scheduled closed session of the right to a public hearing. The closed session is allowable by law if the employee declined or properly failed to request the public hearing.

The Commission shall publicly report any action taken in closed session and the vote or abstention of each Commissioner present.

2.206 Agenda and Supporting Data:

Reference: Government Code 54954.2

- A. All communications and requests which will require action on the part of the Personnel Commission shall be in writing. Communications and requests shall be acknowledged and replied to, noting official Commission action.
- B. Individuals or groups who wish to present proposals for action by the Commission other than grievances, shall be encouraged to present them to the Human Resources Director for placement on the Commission's agenda. The Human Resources Director shall determine if the matter is a proper matter for consideration by the Personnel Commission. The Commission shall take up proposals only at open meetings, although one of the members may be designated to investigate a specific subject and recommend action to be taken by the Personnel Commission.

Reference: Education Code 45253

- C. At least 72 hours prior to every regular meeting or 24 hours prior to every special Commission meeting, the agenda shall be provided to the designated representatives of all employee organizations representing County Office of Education classified employees. When practical, supporting data will be furnished in advance. The agenda will also be posted on the Commission's bulletin board and distributed to news media which have requested it. At least 72 (seventy-two) hours before a regular meeting, the Commission shall post an agenda containing a brief general description of each item of business. A copy of the agenda shall be posted on the Commission's official bulletin board, accessible to members of the public. The notice shall specify the time and place of the meeting.

2.207 Amendment, Deletion, or Additions to Rules:

Reference: Education Code 45260, 45261

- A. All proposals, from any sources, 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.

The Commission will conduct a "first reading" and may take action at the second meeting." Readings may be held at consecutive monthly meetings. The Personnel Commission may waive the above procedure if it finds that an emergency exists or if it finds that compliance with the established time limits would result in an impact on an employee which is inconsistent with the aims and principles of the merit system.

- B. Interested parties shall submit comments to proposals in writing on or before the agenda deadline date and shall have the right to present their comments to the Commission orally at the appropriate meeting.

2.208 Minutes:

The Human Resources Director or designee shall record in the minutes the time and place of each meeting, the name of the Commissioners present, all official acts of the Commission, and votes of the Commissioners. When requested a Commissioner's dissent or approval and the reasons stated shall be recorded. The minutes shall be written and presented for correction and approval at the next regular meeting. The minutes or 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 requested them.

2.300 DUTIES OF THE COMMISSION

2.301 Subjects of Rules:

Reference: Education Code 45261

- A. The Commission shall prescribe and amend, subject to this Rule, 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 be binding upon the Governing Board and the County Office of Education's Superintendent of Schools.
- B. 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.
- C. No rule or amendment shall be adopted by the Commission until the exclusive bargaining representative for classified employees and the County Office of Education's Superintendent of Schools have been given reasonable notice of the proposal.
- D. 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 negotiated agreement, if any, between the exclusive representative for that unit and the public school employer.

2.302 Salary Schedules:

Reference: Education Code 45268

The Commission shall recommend to the Santa Cruz County Board of Education salary schedules for the classified service. The Santa Cruz County Board of Education 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.

2.400 COMMISSION EMPLOYEES

2.401 Appointment of Commission Employees:

Reference: Education Code 45264 and 45625

The Personnel Commission of the Santa Cruz County Office of Education shall appoint a Human Resources Director from an eligibility list established from a competitive examination given under the auspices of the Commission. The Commission shall also appoint from eligibility lists all other employees paid from funds budgeted for the support of the Commission. They shall also supervise the activities of those employees that are performed as part of the functions of the Commission.

2.402 Status of Commission Employees:

The Human Resources 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 shall apply to Commission employees, except as the Commission may specifically direct.

2.403 General Duties of the Human Resources Director:

Reference: Education Code 45261, 45266

- A. The Human Resources Director shall be responsible to the Commission for the following:
 - 1. Carry out all of the duties and functions imposed upon the position by the law and these rules.
 - 2. Act as secretary to the Commission and issue/receive all notifications on its behalf.
 - 3. Direct and supervise the employees of the Commission.
 - 4. 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 Human Resources Director shall conduct classification, salary, and rules studies and shall make such other investigations as directed by the Commission or as deemed necessary to the position responsibilities. The Human Resources Director may be designated as a hearing officer in accordance with Education Code Section 45312.

- C. The Human Resources Director shall prepare an annual report of Commission's activities. When approved by the Commission, the annual report shall be submitted to the County Office of Education's Superintendent of Schools.

The report shall be prepared for Commission approval as soon after each fiscal year as possible, no later than the regular October meeting. The report shall cover Commission activities for the preceding fiscal year.

- D. 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 Human Resources Director, subject to appeal to the Commission.
- E. An employee or employees may confer with the Human Resources Director on any matter pertaining to employment conditions.

2.500 BUDGET

Reference: Education Code 45253, 45254, 45255

- A. The Human Resources Director shall prepare and submit to the Commission a proposed operating budget for the Commission for the ensuing fiscal year. The Budget shall be submitted not later than the first Commission meeting in March.
- B. A public hearing on the Commission's proposed budget will be held during a regular Commission meeting not later than May 30 of each year. The Human Resources Director will forward a copy of the proposed budget to the County Office of Education's Superintendent of Schools and notify the County Superintendent of Schools 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 the County Superintendent of Schools, administration, the Board, employee or other concerned persons or organizations. Efforts shall be made to resolve any differences that may exist.
- D. When approved by the Commission, the budget shall then be submitted to the County Superintendent of Schools in accordance with Education Code Section 45253.

2.600 COUNSEL FOR THE COMMISSION

Reference: Education Code 45313

The counsel of the County Board of Education 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 aide 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 County Superintendent of Schools .

If the matter is one in which the Commission is in conflict with the Board of Education or the counsel refuses, the Commission may employ its own attorney. The reasonable cost thereof shall constitute a legal charge against the general funds of the County Office of Education.

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<p style="text-align: center;">CHAPTER 3 POSITION CLASSIFICATION PLAN</p>

<p>3.100 THE CLASSIFIED SERVICE</p>
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3.101 Positions Included in the Classified Service:

Reference: Education Code 45271

- A. All positions not required by law to have certification qualifications, or specifically exempted in these rules, shall be designated as classified.
- 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.

3.102 Positions Exempt from the Classified Service:

Reference: Education Code 45103, 45105, 45106 and 45256

- A. Generally, positions required by law to have:
 - 1. Certification qualifications,
 - 2. Part-time playground positions, where the employee is not otherwise employed in a classified position. Part-time playground positions shall be considered part of the classified service when the employee in the position also works in the same school district in a classified position,
 - 3. Full-time day students employed part-time,
 - 4. Part-time students employed part-time in any college work-study program or in a work experience education program conducted by a community college district (Education Code section 51760 et seq.) and which is financed by state or federal funds,
 - 5. Apprentices, and
 - 6. Professional experts employed on a temporary basis for a specific project by the Governing Board or by the Commission when so designated by the Commission, shall be exempt from the classified service

B. Special Categories: Staff Assistants

Reference: Education Code 45112

1. The governing board of any County Office of Education employs staff assistants to directly assist the governing board or individual governing board members in carrying out their policymaking duties, such assistants or representatives shall be members of the classified service except that such assistants or representatives shall be exempt from all provisions of this code relating to obtaining a permanent status in any position in the county office, and procedures pertaining to the recruitment, appointment, classification, and salary of members of the classified service.
2. Staff assistants shall serve at the pleasure of a majority of the governing board, and each field representative appointed by the governing board to assist an individual member shall serve at the pleasure of such member.
3. If a permanent classified employee is appointed to serve in such an exempt position they shall retain status as a permanent employee. If the employee is terminated from the exempt position, they shall have bumping rights in their former class in the same manner as if they had been laid off for lack of work or lack of funds.

3.103 **Part-time Defined:**

Reference: Education Code 45256

- A. A part-time position, for the purpose indicated in the exemption rule, is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis is less than 87 ½ percent of the normally assigned time of the majority of employees in the classified service.

3.104 **Effect of Exemption from the Classified Service:**

- A. Any position or employee lawfully exempted from classified service shall be excluded from the benefits and burdens imposed by these rules, except as provided by law or the Governing Board.

3.105 **Weekend/Holiday Positions:**

Reference: Education Code 45203, 45204 and 45127

The County Superintendent of Schools in accordance with the Education Code Section 45204, may create a position or class of positions that require employees to work only on weekends (Saturdays and Sundays) and holidays. When classifying the position, the Commission shall:

- A. Establish a salary scale which recognizes the irregularity of the days and hours required to work.
- B. Exempt employees serving in such positions from overtime pay for work required to be performed on a holiday. The overtime exemption shall not apply to hours required to be worked in excess of eight on any Saturday, Sunday or holiday unless the class is specifically exempted in accordance with Education Code Section 45127 (i.e., recreation and security classes).
- C. Insure 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 County Superintendent of Schools accordingly.

3.106 **Positions Requiring Multiple Languages:**

Reference: Education Code 45277, 45288 and 45400

- A. The County Superintendent of Schools may, with the approval of the Commission, designate positions within a class which require the holder of the position to speak, read, and write a language in addition to English.
- B. The County Superintendent of Schools must clearly set forth valid reasons for placing language requirements on a position.
- C. The announcement for the examination will indicate the special requirement necessary for the position.
- D. When such a position is filled, the appointment shall be made from the top three ranks of candidates on the appropriate eligibility list who meet the special requirements.
- E. If there are insufficient applicants who meet the special requirements, an employee who meets the special requirements may receive provisional appointments accumulating to a total of ninety (90) working days. Extension of provisional appointments apply under rule 5.301.

- F. When a vacancy occurs in a position which has approved language requirements, the County Superintendent of Schools will notify the Commission that the need for language requirements continues to be a part of the position.
- G. If a request from the County Superintendent of Schools to designate a position for language requirements is challenged, the Commission shall direct an investigation and shall consider the findings upon appeal.

3.107 **Mandatory Titles—Instructional Aide, Duties and Qualifications:**

Reference: Education Code: 45342, 45343 and 45344

- A. All teacher aide classes of positions shall be assigned a basic title of "Instructional Aide" or other appropriate title designated by the County Superintendent of Schools. The Commission, in classifying all such positions, shall determine sub-classes thereof, if any, and additions to the basic title as well as completing other classification requirements.
- B. An instructional aide shall perform duties that assist classroom teachers and other certificated personnel in the performance of their duties and the supervision of pupils in instructional tasks. An instructional aide need not perform such duties in the physical presence of the teacher, but the teacher shall retain responsibility for the instruction and supervision of the pupils in the class.

Reference: Education Code: 45344 and 45343

- C. Educational qualifications for Instructional Aides shall be prescribed by the County Superintendent of Schools and approved by the Commission appropriate to the responsibilities to be assigned.

3.200 GENERAL CLASSIFIED RULES

3.201 Assignment of Duties:

Reference: Education Code 45109 and 45276

- A. The County Superintendent of Schools shall 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 the duties officially assigned to the position, the Human Resources Director shall report the facts to the responsible administrator so that appropriate action may be taken.
- B. Upon initial employment and upon each change in classification, classified employees shall be furnished with a copy of their job description.

3.202 General Nature of the Classification Plan:

Reference: Education Code 45104, 45256 and 45276

The Personnel Commission shall establish and maintain a plan of classification for all positions in the classified service. The plan shall indicate which classifications have been designated as entry level. Those classes not designated shall be considered "promotional classes." The list shall contain a designation of the salary rate or range applicable to each class.

3.203 Class Specifications (Job Descriptions):

For each class, as initially established or subsequently approved by the Commission, there shall be established and maintained a job description, which may include:

- A. The official class title;
- B. A definition of the class, summarizing the type of duties and responsibilities and placement within the organizational scheme;
- C. A statement of the minimum qualifications for which may include education, experience, knowledge, skills, abilities, and personal and physical requirements;
- D. A statement essential duties and responsibilities which differentiate the class from other related or similar classes;
- E. License or other special requirements for employment or service in the class;

- F. A statement of physical requirements necessary to perform the duties and the work environment;
- G. A statement of desirable qualifications that may warrant additional consideration in the evaluation of candidates;
- H. Minimum qualifications may never require a teaching, administrative or other credential, nor may they require work experience which essentially would restrict applicants to credential holders. Titles may not be assigned that would restrict competition to holders of credentials.

3.204 **Interpretation of Class Specifications:**

The class specifications and their various parts are declared to have the following force and effect:

- A. The definition and typical tasks are descriptive and explanatory only and not restrictive. They indicate the types of duties, responsibilities, and qualification requirements of the positions, but do not necessarily prescribe what details shall be in respect to any position.
- B. In determining the class to which any position shall be allocated, the specification for each class is considered as a whole. Considerations given, not to isolated clauses, phrases, or words, apart from their context and from illustrative information in other parts of the specifications, but to the general duties, responsibilities, specific tasks, and qualification requirements as affording a picture of the positions that the class includes.
- C. Each class specification is construed in its proper relationship to other specifications, particularly those of classes in the same series and group of classes, in such a manner as to maintain a proper graduation of the series in which the class is located and proper differentiation within the group of classes.
- D. The statement of qualification requirements, when considered with other parts of the specification, is to be used as a guide in the announcement preparation of tests and in the evaluation of the qualification of candidates seeking appointment to positions.

3.205 **Allocation of Positions to Classes:**

All positions substantially similar in the duties performed, the responsibilities exercised, and qualification requirements shall be allocated to the same class.

3.206 **Creating New Positions:**

Reference: Education Code 45109, 45276 and 45285.5

When creating a new position, the County Superintendent of Schools shall submit to the Human Resources Director, in writing, the duties officially assigned to each position. The County Superintendent of Schools may recommend minimum educational work experience requirements for the position. The Human Resources Director shall present recommendations to the Commission, which shall:

- A. Classify the position and determine whether the position should be allocated to an existing class or to a new class;
- B. If a new class is recommended, the Human Resources Director shall set forth the minimum qualifications recommended and those recommended by the County Superintendent of Schools, if any. The minimum qualifications approved by the Commission must reasonably relate to the duties assigned the position by the County Superintendent of Schools;
- C. Designate the proper salary placement, if a pay class is established;
- D. Prior to adopting any new position classification, the Commission shall provide reasonable notice of its proposed action to the exclusive bargaining representative for classified employees and the County Superintendent of Schools. Following adoption, the Human Resources Director shall notify the County Superintendent of Schools of the Commission's action.

3.207 **Changes in Duties of Positions:**

Reference: Education Code 45285.

Any substantial changes in the duties of existing positions shall be promptly reported in writing by the County Superintendent of Schools to the Human Resources Director. The Human Resources Director shall review the reported changes to determine whether the positions should be allocated to different classes.

3.208 **Working Out of Classification:**

Reference: Education Code 45109 and 45110

- A. A Requests for working an employee out of their assigned classification shall be submitted by the employee's supervisor and to the Human Resources Director. The request will include the period of time that is required to be worked and the reason for the request. The Director will obtain the administrator's approval and process the request for Superintendent approval, or Personnel Commission approval where appropriate.
- B. Classified employees shall not be required to perform duties which are not fixed and prescribed in accordance with Education Code Section 45109, unless the duties reasonably relate to those fixed for the position. The period of time may not exceed five working days within a fifteen-calendar-day period.
- C. Classified employees may be required to perform duties inconsistent with those assigned to the position for a period of more than five working days, provided that their salary is adjusted upward if the duties are in an upward salary range. The pay adjustment shall be in effect the entire period they are required to work out of classification, and will reasonably reflect the duties required to be performed outside the normal assigned duties.
- D. When meeting the above requirements of working out of classification in an existing position which is vacant, and the employee is performing at that level of classification, rule 8.203 Promotion shall apply in determining salary.

3.209 **Review of Positions:**

The Human Resources Director shall review the duties and responsibilities of positions as necessary to determine their proper classifications. If the Director finds that a position or positions should be reclassified, the County Superintendent of Schools will be advised of the findings. If the duties are not revised to fit within the current classification, the Human Resources Director shall report the findings and recommendations to the Commission. The Human Resources Director shall also report findings in cases where a review indicates that no change in classification or salary is necessary. Every six to seven years a review of all position classifications will be made on a regular rotating basis, as deemed necessary by the provisions of sections 3.200, 3.300 and/or section 8.102 of these rules. **Amended March 17, 2015**

3.300 RECLASSIFICATION

3.301 Criteria for Reclassification:

Reclassification is recognition that a position has evolved through a gradual change in duties and job requirements. Reclassification of a position to a higher classification must be based on a finding that the level of the position has increased gradually over a period of time.

3.302 Requests for Study:

Requests for position reclassification may be initiated by the employee, the employee's supervisor or administration. Requests from employees must be in the form of a completed reclassification request questionnaire, reviewed by the employee's supervisor and forwarded through the manager of the division to the Human Resources Director. Requests from supervisors or administration must be in writing and submitted to the appropriate division manager. All requests for review must be submitted to the Personnel Office by February 1 of each year. This rule will be suspended for a one-year period following the date the Personnel Commission approves a classification study in its entirety and forwards it to the County Superintendent of Schools.

3.303 Initial Review:

Following February 1st each year, the Human Resources Director will make an initial review to determine whether or not the information in the request(s) justifies making a study of the classification. The Human Resources Director will report to the Commission at their next regular meeting the number of requests received along with a plan for review.

3.304 Procedure for Reclassification Study:

Reference: Education Code 45285.5

Formal reclassification review will include whatever steps necessary to verify the information in the review questionnaire and may include interviews with employees, supervisors, site visits and observations and review of work products. Following the review, a report will be prepared detailing the findings and recommendations.

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

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

3.305 **Impartial Study:**

The recommendations will be the result of a reclassification study and will be free of prejudgment or bias in order to assure the impartiality of the Commission.

3.306 **Use of Professional Consultants/Committees:**

The Commission may, as it sees fit, utilize professional consultants and/or employee advisory committees to work in conjunction with the Human Resources Director.

3.307 **Sudden Change in Duties:**

Any positions which are changed as a result of a sudden reorganization or assignment of new duties and responsibilities shall constitute the abolishment of the previous classification, and creation of a new classification and shall be filled through normal selection processes, as provided in these rules.

3.308 **Upward Reclassification:**

Reference: Education Code 45285

When positions are reclassified to a class at a higher salary level, the following rules apply:

- A. When any positions in a class are reclassified to a higher class, employees with fewer than two years service in the class must pass a qualifying examination for the class in order to be reclassified.
- B. If the examination taken to qualify for the present appointment encompasses the higher class duties, responsibilities and qualifications, the incumbent may be reclassified without further examination.
- C. Incumbents who cannot pass the qualifying examination for the position being reclassified will remain in current classification for up to one year to acquire necessary skills. Personnel Commission staff will see to the periodic testing of these employees. When an employee meets standards within a one-year period, the reclassification becomes effective on the date they successfully meet the standards. If an employee fails to develop necessary skills during a one-year period, the employee may be offered a transfer or voluntary demotion to positions for which qualified, or may be laid off from employment in accordance with contract provisions.

- D. Incumbents who are reclassified to a class with a higher salary range shall be placed at their current step of the new salary range.
- E. Any displacement of a regular employee resulting from a reclassification of a position, whether transferred, demoted, or laid off, shall be considered a layoff for lack of work, and an appropriate reemployment list shall be established, in accordance with these rules. Employees shall have the right for reemployment into their previous class for a period up to 39 calendar months.

3.309 **Downward Reclassification:**

Reference: Education Code 45285 and 45298

- A. When positions are reclassified to a class at a lower salary range, an incumbent shall have the following rights:
 - 1. The right to maintain their current salary by “y-rating.”
 - 2. The right to bump the employee in the same class with the least seniority in the class, provided that the incumbent has greater seniority in the class.
 - 3. The right to bump the employee with the least seniority in any equal or lower class in which the incumbent formerly served, provided that the incumbent had greater seniority in that class.
 - 4. The right to be demoted or to transfer to the class to which the position is reclassified.
- B. Employees may choose to transfer, demote, exercise bumping rights, or be laid off at their option, and their choice shall not affect their rights under rule 3.308C.

3.310 **Reclassification to a Similar Class:**

When a position is reclassified to a similar class at the same salary range, the incumbent may elect to remain in the position, and their salary shall be treated as a transfer; or the incumbent may be transferred, demoted or laid off.

3.311 **Effective Date of Reclassification:**

Change in reclassification and salary resulting from the permanent reclassification of the position shall be effective no earlier than whichever of the following dates is applicable:

- A. The date of the meeting on which the Personnel Commission approves reclassification of the position, provided the employee is eligible to be reclassified without examination, as specified in these rules; or
- B. The date the employee becomes fully qualified for the position by successfully completing all parts of the examination.
- C. The effective date shall not be more than three months in the future, except in cases provided under rule 3.308C.

3.312 **Reclassification of Vacant Positions:**

Rules 3.301 through 3.308 shall apply only to positions which 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.

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CHAPTER 4 APPLICATION AND EXAMINATION

4.100 APPLICATION FOR EMPLOYMENT

Reference: Education Code 45260 and 45272

4.101 **Filing of Application**

All applications for employment shall be made upon official forms furnished by the Commission, filled out as therein directed, and filed on or before the date specified in the examination announcement.

Applications for regular permanent positions will not be accepted unless there is an actual opening to be filled, except for continuous examinations.

Applicants taking more than one examination must file a separate application for each such examination.

4.102 **General Qualifications of Applicants**

Reference: Education Code 45293

Applicants must be citizens of the United States or be legally authorized to work in the United States, possessing the appropriate employment documentation. Applicants must meet all established requirements including the minimum qualifications of the class specification officially adopted by the Commission and set forth on the examination announcements.

Reference: Education Code 45134

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

4.103 **Disqualification of Applications**

Reference: Education Code 45124 and 45303

An applicant or candidate may be disqualified from examinations, and an eligible may be disqualified from certification or appointment by the Human Resources Director for any of the following reasons:

- A. Failure to meet the general qualifications of Rule 4.102.
- B. Failure to execute the oath of allegiance required by the State of California or an acceptable alternate.
- C. Advocacy of overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.
- D. Conviction of or pleading guilty in court to a narcotics offense, a charge of moral turpitude, any sex offense, or mistreatment of children.

Reference: Education Code 45123 and 45124

- E. Making a false statement or omitting a statement as to any material fact on the application form.
- F. Practicing any deception or fraud in connection with an examination or to secure employment.
- G. Dismissal from a previous employment for cause if the cause would have subjected the applicant to dismissal by the County Office.
- H. Previous dismissal from this County Office unless the County Office waives this subsection.
- I. A record of unsatisfactory service with this County Office even though separation has not occurred.
- J. Health conditions which preclude performance of essential duties of the position being applied for.
- K. Failure to report to any scheduled examination.
- L. Failure to report for duty after an assignment has been offered and accepted.
- M. Failure, after due notice, to report promptly for review of any of the above basis for disqualification.
- N. Refusal to furnish testimony at a hearing or investigation before the Personnel Commission or Governing Board.

4.104 **Appeal of Disqualification**

Reference: Education Code 45293, 45312, and 45317

- A. Applicants, candidates, and eligibles who are disqualified for any of the reasons enumerated in Rule 4.103 shall be notified in writing by the Human Resources Director. The notifications shall state:
 - 1. The reason(s) for disqualification;
 - 2. That, within seven calendar working days, the individual may appeal in writing to the Human Resources Director for administrative review, and that failure to appeal for administrative review makes the disqualification final and conclusive.
- B. If there has been an administrative review, as provided above, and the disqualification is sustained, the individual shall be:
 - 1. Given a written notice outlining the reason(s) for sustaining the disqualification; and
 - 2. Informed of their rights to make a written appeal of the disqualification and/or the period of disqualification, within seven working days, to the Personnel Commission. The appeal may be based on any of the following reasons:
 - a. Discrimination because of political or religious acts or affiliations or opinions; or because of race; color; sex; marital status; national origin or ancestry; sexual orientation; and any other protected classes.
 - b. Abuse of discretion.
 - c. Inconsistency of the reasons given for disqualification with the facts.
 - 3. Upon receipt of an appeal, the Commission shall set a date of hearing, hear all of the evidence, and render a decision. Its decision shall be transmitted in writing to all concerned and shall be final.

4.105 **Action When Disqualification Is Not Sustained**

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

4.200 EXAMINATION

Reference: Education Code 45261

4.201 Announcement of Examination

The Personnel Commission shall direct the holding of examinations for the purpose of creating lists for the Classified Service. No examination announcement may be made and no part of any examination may be held for a new position until the County Superintendent of Schools has authorized the position duties and the Commission has completed the position classification including the establishment of minimum qualification.

4.202 Character of Examination

Reference: Education Code 45273

Examinations may be written, oral or in the form of a practical demonstration of skill and ability, or any combination of these. Any investigation of education, experience, character or identity, and test of technical knowledge, manual skill, or physical and mental fitness which, in the judgment of the Human Resources Director, serves this end, may be employed.

4.203 Subjects About Which No Questions Shall Be Asked

Reference: Education Code 45293

No questions relating to political or religious opinions or affiliations, race, color, sex, sexual orientation, national origin or ancestry, physical handicap unrelated to job requirements, or marital status shall be asked of any applicant or any eligible whose name has been certified for appointment, nor shall any discrimination be exercised therefore.

4.204 Scoring and Weighing of Examinations

The relative weights of the different parts of the examination shall be determined by the Commission and set forth in the announcement of the examination. All examination papers shall be prepared and rated under the direction of the Human Resources Director.

4.205 Rating Required

Competitors may be required to attain a designated minimum rating in each part or in combined parts of the examination to qualify for participation in the next succeeding part; or the Human Resources Director may determine and announce publicly how many applicants who take an examination may be declared eligible to participate further in establishing a list of qualified candidates.

4.206 Types of Examinations

Examinations may be designated as:

- A. PROMOTIONAL - Limited to permanent and probationary members of the Classified Service.
- B. OPEN - Open to all applicants who meet minimum qualifications and who are not rejected, as provided in Rule 4.104.
- C. OPEN/PROMOTIONAL - Given to both open and promotional applicants for the purpose of establishing separate open and promotional lists.
- D. OPEN - (DUAL CERTIFICATION) Given to both open and promotional applicants and resulting in a single eligibility list.

4.207 **Criteria for Examination Announcements**

- A. All examinations other than entry-level positions will first be announced as promotional opportunities. When no promotional field exists or there is doubt of its adequacy, the Commission may order an open examination or simultaneous open and promotional examination.
- B. Employees will be allowed five working days from the date of publication of the announcement to apply for the examination or notify the Personnel Office of their intent to apply. Employees filing notice of intent to apply may be allowed up to an additional five working days to file formal application.
- C. If no response is received by the Personnel Office by the close of the fifth working day, or if no employee applicants meet the minimum qualifications for the position, the examination will be opened to the general public and advertised in accordance with the normal procedures.
- D. If a minimum of four qualified employees apply for the announced examination, the examination will be declared a closed promotional examination and will be limited to those applicants. In cases where a need for substitute or temporary employees is anticipated, an open examination may be given concurrently; however, all candidates will be notified that the promotional list will take precedence in filling permanent openings.
- E. If three or fewer qualified employees apply, the examination will be declared open, the opening will be advertised, and all "open" candidates will be notified that dual certification from a single list will be used in final selection of a candidate.
- F. Exceptions to this procedures will be made only with specific authorization by the Personnel Commission.

4.208 **Notice of Examination**

Reference: Education Code 45278 and 45287

- A. The Personnel Commission shall direct the holding of examinations for the purpose of creating lists for the Classified Service. At least ten working day's advance public notice of such examination shall be given. The notice shall contain the following facts:
1. Information concerning the location of employment and other conditions of employment;
 2. Description of the scope of duties and responsibilities of the position and the class;
 3. Minimum qualifications required;
 4. The salary and other forms of compensation;
 5. The last date for filing an application;
 6. The general content of the examination and the types of tests to be given;
 7. The weight of each part of the examination; and
 8. Such other information that will assist the employees and the public in fully understanding the nature of the employment and procedures necessary to participate in the examination.
- B. Notices of all examinations shall be posted on the County Office of Education web site, on the Personnel Commission bulletin board, and in the staff bulletin. Exam notices will be mailed to the home at the employee's request in writing. However, the failure of an employee to receive such notice shall not invalidate any procedure, if in fact the notice was placed in the mail and postage paid.

4.209 **Admission to Examination**

Each applicant whose application has been approved shall be notified a reasonable time in advance of the time, date, and place of the examination, and such notice shall be the applicant's authorization to take the examination. No candidate may be admitted to any examination without having filed an acceptable application.

4.210 **Examination Procedures**

- A. Competitors in any written test must take the test on the prescribed date unless approved by the Classified Human Resources Director.
- B. Copies of the questions in a test shall not be made by competitors or other unauthorized persons.
- C. Where written tests are required, they shall be so managed that none of the test papers will disclose the name of any competitor until all papers of all competitors in a given examination shall have been marked and rated.
- D. Any competitor in any examination who places any identifying mark upon their test papers (other than the identifying mark prescribed at the time of examination) or makes any attempt to disclose to others the identity of their papers prior to the completion of the examination, shall be disqualified.

4.211 **Oral Examination (Interview)**

Reference: Education Code 45273 and 45274

- A. If an examination includes an oral examination eligible competitors will be examined at the earliest practical date after conclusion and rating of the earlier test(s).
- B. An oral panel will consist of two or more persons, one may be a representative of the Personnel Commission and at least one of whom shall be technically qualified to interview for knowledge in the area of the class of positions being tested for.
- C. Under no circumstances shall a supervisor employee, under which a successful competitor may serve, be designated as an oral examiner.
- D. Remaining examination records, such as papers, tapes and scores of the candidate or eligible shall be available for review only by the candidate or their designated representative. The candidate or representative may not review the records of another person.
- E. A competitor may appeal an oral exam rating to the Human Resources Director and, if rejected, they may appeal to the Commission at any time after notification of their final score, but within ten days after establishment of the eligibility list. The Commission may alter the oral exam rating if it finds justification for the protest and order the competitor's examination score adjusted accordingly. No change in an eligibility list shall invalidate any appointment which was made prior to the ordered adjustment unless the appointment was fraudulent.

4.212 **Continuous Testing**

Reference: Education Code 45291 and 45292

- A. The Commission may designate examinations for specified classes as continuous examinations. Applications shall be accepted every working day and examinations shall be given as the need arises.
- B. Continuous Examination Procedures.
 - 1. Continuous examinations will be used when the Personnel Office determines that a shortage of qualified candidates exists for a given position.
 - 2. Eligibility lists may be merged with previous lists for the class in order of final score.

4.213 **Retesting**

- A. Candidates who do not pass the written test must wait a minimum of 15 days prior to retesting.
- B. Candidates who pass the written exam and who wish to retake the test to attempt to improve their scores must wait a minimum of 45 days. The most recent score will be used to determine placement on the eligibility list.

4.300 SCORING AND REVIEW

4.301 **Notice of Final Score**

Each competitor shall be notified of their score on the examination and on their standing on the eligibility list, if qualified.

4.302 **Examination Scores**

Reference: Education Code 45272

The final score of all candidates who pass an examination will be rounded to the nearest whole score. All eligibles with the same score will be considered as having the same rank.

4.303 **Seniority Credit--Promotional Examinations**

For those eligible, seniority credit shall be added to the final passing scores of candidates. Credit shall be granted for time spent in regular employee status (see definition) in the classified service and on paid leave from the classified service while otherwise employed in this County Office. A full year's credit shall be granted to employees whose regular position is assigned on less than a calendar year basis. Credits shall be calculated for units of not less than a half a year. The following is the schedule of seniority credit allowed:

- a. 1.0 point for service from seven to twelve months of service.
- b. 1.5 points for service after the completion of two full years of service.
- c. 2.0 points for service after the completion of three full years of service.
- d. 2.5 points for service after the completion of four full years of service.
- e. 3.0 points for service after the completion of five full years of service.
- f. 3.5 points for service after the completion of six full years of service.
- g. 4.0 points for service after the completion of seven full years of service.
- h. 4.5 points for service after the completion of eight full years of service.
- i. 5.0 points for service after the completion of nine full years of service and all years thereafter.

4.304 **Veteran's Preference**

Reference: Education Code 45294

- A. To be entitled to veteran's preference as provided for in Education Code 45294, applicants shall apply for such preference upon the official application forms at the time of filing such applications and forward to the Personnel Commission the original or a certified or photographic copy of their military service or other acceptable evidence of required military service.
- B. "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. At least 30 days of active service in the Army, Navy, Marines, Air Force, Merchant Marines, Coast Guard, or as a nurse on active duty with the Red Cross.

Reference: Education Code 45295

- C. "Disabled Veteran" as used in this article means any veteran, as defined in Section 45294, who is currently declared by the United States Veterans Administration to be ten 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.

Reference: Education Code 45296 and 45297

- D. In the case of open examinations, veterans who became 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 ten points, which shall be added to the percentages attained in the examinations by the veterans.
- E. Veteran's points will be utilized only in establishment of open lists. Veterans points will not be added to the score of those candidates competing on an open basis until all promotional eligibles have been removed or appointed from the list.

4.305 **Review of Written Test Questions**

- A. Review of test segments shall be made during the five (5) working days following notification. At the time of review the candidate may protest in writing, any part of the examination, outlining the basis for the protest and stating the remedy sought. No candidate may remove or copy information from the examination.
- B. Failure to review or file a protest with the Human Resources Director within the review period shall constitute a waiver of the right to appeal that part of the selection process.
- C. In all cases of test booklet or answer key review, the Human Resources Director or their representative will be present.
- D. The Human Resources Director shall review and act upon all challenges within three working days. The Human Resources Director may allow more than one answer to a question or may disqualify a question. If the protest results in any change, the test papers of all applicants will be reviewed and rerated accordingly.
- E. The Human Resources Director shall inform the protester of the decision. If the Human Resources Director rules against the protest, the applicant may appeal in writing to the Personnel Commission within five working days, but the appeal shall not delay other parts of the examination process.
- F. The Personnel Commission shall hold a hearing to hear the appeal of the applicant. The decision of the Personnel Commission shall be provided in writing to the applicant. The decision of the Personnel Commission shall be final and binding on all parties.

4.306 Confidential Information

Reference: Education Code 45274

- A. All applications and examination papers are confidential records of the Personnel Commission and shall not be returned to the applicants.
- B. The names of the applicants or unsuccessful candidates in any examination shall not be made public.
- C. Examination records, including any recording and the rating sheet of each member of the oral board for each candidate, shall be retained by the Commission for a period of not less than 90 days after establishment of an eligibility list.

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CHAPTER 5 ELIGIBILITY AND APPOINTMENTS

5.100 ELIGIBILITY LISTS

5.101 Establishment and Approval of Lists

Reference: Education Code 45272

After an examination, the names of successful competitors shall be arranged on a list in the order of examination score, plus additional points where applicable. The list shall be presented for approval to the Personnel Commission. To facilitate the orderly progress of business, the Human Resources Director may submit eligibility lists for notification and approval by the Commission subsequent to appointment from the list.

5.102 Life of Lists

Reference: Education Code 45300

- A. After approval, an eligibility list shall be in effect for one year, unless exhausted. The list may be extended for up to one additional year at the discretion of the Commission. Names of successful competitors may be added to eligibility lists resulting from continuous examinations by the Human Resources Director prior to approval by the Commission.
- B. Eligibility lists may be established for a period of six months upon the approval of the Personnel Commission provided that the duration of the list is noted in the recruitment announcement. Six month eligible lists may be extended at the discretion of the Commission.

5.103 Termination of Eligibility Lists

Reference: Education Code 45300

- A. An eligibility list is automatically terminated six months or one year from the date of the examination unless previously extended by the Commission.
- B. An eligibility list is automatically terminated after its period of extension unless previously terminated.
- C. An eligibility list is automatically terminated when no eligible remains on the list.

- D. An eligibility list may be terminated by the Commission at the request of the Human Resources Director when no eligible is available for appointment to a specific permanent position in a class or when there are fewer than three ranks of eligible(s). The remaining eligibles will be notified by the Commission and will be given an opportunity to apply for the next examination.

5.104 **Types of Lists**

A. **Reemployment Lists**

1. Reemployment: A list of employees who have been laid off from permanent positions because of lack of work, lack of funds, or exhaustion of benefits. This list shall take precedence over all others eligible for appointment.
2. Military Leave: Employees who acquire leaves of absence for military reasons and those who are ordered pursuant to the laws of the United States, to serve in any civilian war effort or war industry, shall take precedence by having their names placed over other names on the reemployment list in any given class.

B. **Eligibility Lists**

1. Promotional: A list of eligibles resulting from an examination limited to qualified regular employees only.
2. Promotional and Open Competitive: Separate promotional and open competitive lists of eligibles resulting from a single examination with the promotional lists taking precedence.
3. Merged Promotional and Open Competitive: One list of eligibles resulting from a single examination. Also, referred to as "dual list."
4. Open Competitive: A list of eligibles resulting from an examination open to all qualified applicants.

Seniority points are added to the score of promotional candidates to determine their final rank on the list. Veterans points will not be added to the score of those candidates competing on an open basis until all promotional eligible have been removed or appointed from the list.

5.105 **Requests (Other methods of filling positions include):**

- A. Transfer: Permanent Employees who have requested appointment to a vacant position in the same or related classification. (See Rule 6.201)
- B. Reinstatement: Former employees who have resigned in good standing and requested reinstatement to a vacant position in a class in which they held permanent status within the past 39 months.

- C. Demotion: Permanent employees who have requested assignment to a vacant position in a lower classification.

5.106 **Consolidation of Eligibility Lists**

Reference: Education Code 45291

- 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 list may then be merged with the existing list of eligibles ranked in the order of examination score, plus additional points where applicable. Promotional lists shall be merged only with promotional lists, except that, where "dual certification" applies, open and promotional lists shall be merged for certification.
- B. All candidates on an eligibility list which is terminated shall be notified at the time a new examination is scheduled for the class. Each candidate may retake the examination if a period of fifteen (15) days has elapsed since the candidate last took the examination. Notification is not required when an eligibility list expires.
- C. When lists are consolidated under this rule, the earlier list shall be terminated one year after its establishment as in Rule 5.102.

5.107 **Eligibility After Appointment**

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

5.108 **Removal of Names from Eligibility Lists**

- A. The name of an eligible may be removed from an eligibility list by the Human Resources Director for any of the following reasons:
 - 1. Written request by the eligible for removal.
 - 2. Failure to respond within five days to an inquiry regarding availability for employment.
 - 3. Any of the causes listed in Rule 4.103.
 - 4. Termination of employment (Promotional Eligibility List only).
 - 5. Failure to respond for an interview after certification.

- B. The name of an eligible may be removed from an eligibility list by the Human Resources Director, subject to appeal to the Commission, for any of the following reasons:
 - 1. Three waivers of certification during the life of the eligibility list, except that waivers relating to the part-time or limited-term appointments shall not be counted for the purpose of this sub rule.
 - 2. Refusing an employment offer after having been properly certified as eligible for appointment.
 - 3. If an eligible has been certified three times and has been interviewed three times by representatives of the appointing authority without being selected for the position being filled.
 - 4. The Human Resources Director shall notify the eligible of any of the above actions including the reasons. The Human Resources Director shall provide the person with the opportunity to appeal the decision within five (5) days of notification. The decision of the Commission shall be final.
- C. The name of a candidate will be removed from the substitute list for:
 - 1. Failing to accept or respond to an offer of a substitute job three times.
 - 2. When three different evaluations are received finding the substitute to be unsatisfactory.
 - 3. In special circumstances, the Director of a program may request the name of a substitute be removed from the list. The Human Resources Director will investigate and notify the substitute of the action taken.

5.109 **Restoration to Certification**

- A. When the name of a person has been withheld or removed from an eligibility list, the name may be restored on such list or restored thereto by the Human Resources Director under the following circumstances:
 - 1. The applicant presents in writing a good and valid reason for failure to appear, respond, or accept employment.
 - 2. When the withholding or removal was for a reason stated in Rule 4.103 and such action was improper and has since been corrected.
 - 3. Revisions and withdrawals of voluntary waivers.
 - 4. Presentation of required license, registration, certificate, or credential as provided in Rule 5.205C.

5.200 CERTIFICATION AND APPOINTMENT

5.201 Request for Certification of an Eligible

- A. The appointing authority must file a separate request in writing on the appropriate form to fill each vacancy.
- B. The request must contain all of the information necessary for the Human Resources Director to properly evaluate and certify an eligible.
- C. Any special request for skills, licenses, or certificates (e.g., a second language or driver's license) must be documented as part of this request.

5.202 Certification From Employment Lists

5.202.1 **Transfer:** If a vacancy occurs, employees eligible for transfer will be given first consideration to the vacancy. If there is a resulting vacancy, the following preferences would be utilized.

5.202.2 Order of Precedence

- A. **Reemployment List:** If a reemployment list exists containing eligibles for the class in which the vacancy occurs, then the top name from that list shall be certified and appointed to that position. This list shall take precedence over the following lists.
- B. **Reinstatement:** Includes permanent classified employees who have voluntarily resigned and request to be reinstated within 39 months after their last day of paid service and without further competitive examination. Names on the reinstatement list shall be in order of seniority. The appointing authority may choose not to appoint from the reinstatement list and may request to interview eligibles from the promotional eligibility list. In the absence of a promotional list, names will be certified from the open eligibility list.

Reference: Education Code 45309
- C. **Promotional Eligibility List:** Includes regular classified employees who meet the minimum qualifications and who have qualified in a promotional examination. This list shall take precedence over the open eligibility list.
- D. **Merged Open/Promotional List:** Includes both promotional candidates and open candidates who have qualified in a competitive examination.
- E. **Open Eligibility List:** Includes eligibles who meet the minimum qualifications and who have qualified in a competitive examination. This list shall be used in the absence of a reemployment, reinstatement, and promotional list.

5.202.3 **Special Requirements**

Reference: Education Code 45277

- A. When the ability to speak, read, or write a language in addition to English or the possession of a valid driver's license is a requirement of the position to be filled and has been documented in the request form, the Human Resources Director will certify the top three 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 Human Resources Director shall certify the top applicant or applicants plus those applicants who meet the special requirements, not to exceed three candidates.

5.202.4 **Procedure When Fewer Than Three Ranks Remain**

- A. When fewer than three ranks of eligibles are available on the promotional list, sufficient names shall be certified from the open list to allow a choice among three ranks of eligibles.
- B. 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.
- C. The appointing authority may make an appointment to fill a vacancy only from those eligibles certified according to paragraphs A and B above. If one or more of the eligibles originally certified declines or fails to respond for interview or appointment, additional eligibles will be certified as detailed in Section 5.203.

5.203 **Certification of Additional Eligibles**

- A. If, after certification of eligibles, the appointing authority desires certification of additional eligibles, a written request will be submitted to the Human Resources Director which shall:
 - 1. Specify the number of additional eligibles required;
 - 2. Detail all pertinent data which requires the certification of additional eligibles including the name of the eligibles certified who refused appointment (and reasons given) or failed to respond for the interview.

- B. The Human Resources Director, when the request is received, shall immediately investigate the matter to determine if the request is valid and, specifically, to determine that an appointment refusal was voluntary on the part of the concerned eligible.
 - 1. If the Human Resources Director finds the request to be valid:
 - a. Certify additional eligibles as may be required;
 - b. Remove from the eligibility list, at the Human Resources Director's discretion, the names of eligibles who failed to report for interview or who refused appointment, and notify the eligibles of the action and their right to appeal to the Commission;
 - c. Notify the Commission of the action taken.
 - 2. If the Human Resources Director finds that a refusal of appointment was not voluntary and free of any duress:
 - a. Notify the appointing authority of the findings and refuse to certify additional eligible, citing the provisions of this rule;
 - b. Refer the matter to the Personnel Commission together with the findings and recommendations, which may include suggested action under Education Code Section 45317;
 - c. Advise the appointing authority of the date of the report to the Commission in order to enable appropriate representation.

5.204 Certification from List for Another Class

- A. If there is no eligibility list for the class in which the vacancy occurs, certification may be made from a list from another class at the same or a higher salary level if the duties and qualifications of the class for which the examination was given include substantially all of the duties of the position to be filled. The Personnel Commission must find that the use of the list is in the best interest of the County Office and that the necessary skills and knowledge were adequately tested in the examination.

- B. Requests for Reduction in Eligibility:

If eligibility lists exist in two classes within the same line of promotion, a reduction in eligibility from the higher class to the lower class may be granted at the eligible's request. A person granted a reduction in eligibility shall be placed at the bottom of the eligibility list for the lower class. When no eligibility list exists for the lower class, reduction in eligibility may be granted only in accordance with 5.204.A of this rule.

5.205 **Withholding Names from Certification**

The name of an eligible may be withheld from certification when:

- A. The eligible expresses unwillingness or inability to accept appointment.
- B. The eligible cannot be reached in time for appointment when immediate temporary employment is required. (This provision shall apply only to such immediate temporary employment.)
- C. The eligible fails to present the license, registration, certificate or any other credential required. (The name of any such eligible shall be restored by the Human Resources Director for certification when the particular requirement has been met.)

5.206 **Duties of Eligibles**

- A. It shall be the duty of every eligible to respond promptly after receiving the notice of certification. Failure of an eligible to respond will be deemed a waiver of certification. The Human Resources Director may certify an additional name in lieu of the name of the eligible.
- B. An eligible who has been certified shall be allowed two weeks to report for duty after an offer of appointment to a permanent position has been made. An eligible who is unable or unwilling to report by the end of two weeks may be considered to have refused appointment. The appointing power may request certification of another name from the eligibility or reemployment list.
 - 1. The date of the offer of appointment shall be the date on which the eligible is notified by the Human Resources Director of the appointment.
 - 2. The appointing power may allow a period longer than two weeks at its discretion.
 - 3. When appointment is to a limited-term position, the eligible must be available on the date specified by the appointing power.
- C. Eligibles are required to keep the Personnel Commission Office informed as to current home address and telephone numbers where they can be reached to schedule employment interviews. Failure to keep the Personnel Commission Office informed could result in the eligible being bypassed on the eligibility list as unreachable. In that event, the Director of Human Resources shall send a letter inquiring as to continued availability and interest. Failure to respond pursuant to these rules will result in removal from the eligibility list.

5.207 **Interview and Appointment**

The appointing authority shall interview all persons certified by the Human Resources Director and notify the Director in writing of the decision.

5.208 **Employee Clearances**

A. **Tuberculosis (T.B.) Examinations**

1. All candidates being considered for placement, whether in a regular or limited-term position, shall be required to undergo an examination to determine that they are free from active tuberculosis.
2. As a condition of continued employment, employees are required to undergo an examination to determine that they are free from active tuberculosis at least once every four years thereafter. The County Office shall provide the required examination and maintain adequate records on each employee, which indicate compliance with these rules and the law.

B. **Criminal Records Check**

Reference: Education Code 45125 and 45126

1. **Fingerprinting**

Every new employee shall submit to a criminal records check in accordance with prescribed procedures, or shall forfeit eligibility for employment.

2. **Review of Criminal Records**

- a. All Criminal record reports are to be treated as confidential. Any employee charged with receiving and/or reviewing them who divulges information contained therein to an unauthorized person is subject to disciplinary action.
- b. The criminal records report from the appropriate state and/or federal agency will be reviewed together with the person's application form. If there is a criminal record, the County Superintendent of Schools or designee shall decide whether or not the person should be employed or retained in employment.
- c. If an employee is to be dismissed because of information disclosed on the criminal records report or if the County Superintendent of Schools or designee desires that an eligible be removed from an eligibility list because of such information, the Human Resources Director shall notify the appropriate division assistant superintendent of the recommended action and the reason therefore.

- d. If the recommendation is approved, the Human Resources Director shall notify the employee or eligible of the action taken and the reasons. The Commission shall provide the person with an opportunity to appeal the decision in writing within ten days of notification and may hold a hearing at its discretion. The decision of the Commission shall be final.

5.300 LIMITED TERM APPOINTMENTS

5.301 Provisional Appointments

Reference: Education Code 45287, 45286, 45288 and 45289

A. Conditions Under Which a Provisional Appointment May Be Made

1. The appointing authority may make a provisional appointment when the Human Resources Director certifies that:
 - a. No eligibility list exists for the class; or
 - b. An eligibility list exists, but there is an insufficient number of available eligibles and the appointing authority refuses to appoint an available eligible.
2. Insofar as possible, provisional appointees shall be required to meet the minimum qualifications for the class of the appointment as stated in the class specifications.
3. Employees may receive a provisional appointment or appointments which may accumulate to a total of 90 working days, after which a 90-calendar-day interval shall elapse during which they shall be ineligible to serve in any full-time provisional capacity.
4. Notwithstanding Subsection 3 above, the Commission may extend the 90-working-day provisional appointment for a period not to exceed 36 additional working days provided:
 - a. An examination for the class was completed during the initial 90 work days of the employee's provisional assignment.
 - b. Satisfactory evidence is presented indicating:
 1. Adequate recruitment effort has been and is being made.
 2. Extension of this provisional assignment is necessary to carry on vital functions of the County Office.
 3. The position cannot be satisfactorily filled by use of the eligibility list or other employment lists or procedures such as reinstatement, transfer, or other appropriate eligibility lists.

4. No person shall be employed in provisional capacities 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 Education Code Section 45256, successive 90-working-day provisional appointments may be made to the part-time position for a total of more than 126 working days in a fiscal year.

B. Terminating Provisional Appointments

1. The services of a provisional appointee shall be terminated within 15 working days after the date on which an eligibility list has been established, provided that this 15-day period does not extend beyond the 90-working-day provisional assignment or the additional 36 working days if authorized by Rule 5.301A4.
2. A provisional appointment may be terminated at any time at the discretion of the appointing power.

5.302 **Emergency Appointments**

Reference: Education Code 45290

- A. If it should become necessary in time of emergency to fill positions in the classified service to prevent the stoppage of public business, the County Superintendent of Schools, through its authorized Department Managers, may make emergency appointments, through the Human Resources Director, for a period not to exceed 15 working days.
- B. When such emergency appointments are to be made, it shall be the duty of the appointing authority to notify the Human Resources Director in writing, giving date of appointment, nature of duties performed, and a statement justifying the emergency nature of such appointments. Time served under such emergency appointments shall be considered as part of the period permitted under the Education Code for provisional appointments.

5.303 **Temporary Appointments**

A. Types of Temporary Appointments:

1. Substitute

Reference: Education Code 45286

A substitute assignment may be made during the authorized absence of the regular employee, but it need not coincide with the dates of that absence. Also, a substitute assignment may be made in a lower class related to that of the absent employee if the assigned duties are reduced in level accordingly.

2. Extra Help

A temporary appointment may be made to provide extra help for a period established in advance and which does not exceed six months.

B. Procedures for Temporary Appointments:

Reference: Education Code 45286

Whenever the appointing power shall require the appointment of a person to a temporary position, they shall submit a request in which the probable duration of the appointment is stated. Eligibles shall be certified in accordance with their position on the appropriate employment list and their willingness to accept appointment to such position as temporary employees.

1. Short-term temporary positions shall be filled by the first eligible on the appropriate lists willing to accept employment.
2. The names of the top three ranks of candidates shall be certified in filling requests for substitutes for periods of over ninety working days.

C. Eligibility for Temporary Employment

1. If eligibles have been appointed from an eligibility list to a substitute assignment or extra help position, they shall continue to be eligible for temporary appointments in the same or related lower class after the eligibility list has expired. The same privilege of continued eligibility shall apply to former employees who resigned in good standing and who accepted a temporary appointment within 39 months after resignation. The names of such persons shall be ranked in the order of seniority on a special list used for temporary appointments and shall be certified before the current eligibility list is used. Names may be removed from this list for any of the causes listed in Section 5.108.
2. Provisional appointments may be made to temporary positions subject to provisions of Section 5.301.

5.304 Compensation

- A. When regular employees are given limited-term appointments in a second class in lieu of all or part of their regular appointment, the employees shall be placed on the step of the second class which provides a minimum of a five percent salary increase over their current salary, but not more than the highest salary step applicable to that class.
- B. Former regular employees who are reinstated as limited-term employees within 39 months after resignation shall be reinstated in accordance with Rule 6.203D. The assigned salary step shall be applicable to all future limited-term appointments of that employee in that class until the loss of eligibility for such appointments.

- C. All other limited-term employees shall be paid at salary step one for regular appointments in the class. Requests from the appointing authority representative for placement above Step I shall be investigated by the Human Resources Director and meet all requirements under 8.201A.

5.305 **Rights and Benefits**

Reference: Education Code 45136

- A. Regular employees who are serving in limited-term appointments while retaining regular status in another class shall continue to earn and be granted all rights and benefits of a regular employee.
- B. All limited-term employees hired in a substitute capacity for a period to exceed six months shall be entitled to receive all health and welfare benefits provided to regular employees. No seniority or credit toward completion of probation or any other benefit shall accrue from service in a limited-term appointment except as provided under Paragraph A of this rule and/or Section 5.202 B.
- C. All other limited-term employees shall be granted only those benefits provided by law.

5.306 **Terminations of Limited-Term Employees**

Reference: Education Code 45286

- A. Limited-term appointments shall be subject to termination at any time except during an assigned shift.
- B. Limited-term employees may be dismissed for cause, which cause shall be made known to them and to the Human Resources Director in writing. The Human Resources Director may remove the employee's name from the special list for limited-term appointments if their investigation supports such an action.

5.307 **Employment of PERS Retirees**

Reference: Education Code 45135 and Gov't Code 21150

- A. General Policy
 - 1. Any person receiving a retirement allowance from the Public Employee's Retirement System may be employed for up to 960 hours in a calendar year.
 - 2. Retired employees must certify that they understand there is a restriction of 960 hours in any calendar year with the County Office and other employers subject to PERS. Continuance in employment are discretionary with the County Superintendent of Schools.

B. Compensation

1. Retired employees shall be entitled to all fringe benefits applicable to employees with limited-term status only, except retirement contributions.
2. Retired employees appointed to positions in their last permanent classification shall be placed on the step of the salary schedule closest to their last rate of pay (excludes differential pay).

Retired employees appointed to positions in any other class will be paid on the first step of the appropriate range of the salary schedule but may be paid on a higher step upon the recommendation of the appointing authority, and provision of 8.201.A, and the approval of the Commission, but in no case will the compensation be at a rate other than one payable to a regular employee in that class.

C. Assignment

1. Retired employees employed under this Rule are not subject to reinstatement to PERS nor does the compensation paid provide for retirement allowance adjustment.

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CHAPTER 6 EMPLOYMENT STATUS
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6.100 INITIAL EMPLOYMENT AND PROBATIONARY PERIOD

6.101 **Initial Employment**

Reference: Education Code 45169

Upon initial employment and upon each change in classification, classified employees shall be furnished with their class specification, salary data and assignment of work location, together with duty hours and the prescribed work week. The salary data shall include the annual, monthly, or pay period, daily, hourly, overtime and differential rate of compensation, whichever are applicable. One copy shall be retained by the employee and the other copy shall be signed and dated by the employee and retained by the Human Resources department.

6.102 **Probation**

Reference: Education Code 45301/45305 and Assembly Bill 1353

A. Duration of Probation

A new employee appointed from an eligibility list shall serve a probationary period of six months or 130 days (excluding time while employees are on a leave of absence) in one class before attaining permanency in the classified service. The permanent anniversary date will be the date the employee completes a six-month (130 days of paid service) probationary period (excluding time while employees are on a leave of absence). An employee who has been promoted shall serve a probationary period of six months or 130 days in the higher class before attaining permanency in that class. Credit toward completion of probation shall be granted only after appointment from the eligibility list.

1. The probationary period is to be deemed satisfied if the employee is in paid status an average of twenty days or more for each month of the probationary period regardless of the number of calendar months over which such service extends.
2. Probationary employees assigned on a part-time, regular basis must complete the probationary period of six months or 130 days of part-time service. An employee who is transferred or assigned to a full or part-time position in the same class need not complete an additional probationary period.

Classes designated by the Commission as management will serve a probationary period not exceeding six months or 130 days of paid service, whichever is longer from date of hire (excluding time while employees are on a leave of absence). A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional position, shall be employed in the classification from which the employee was promoted. **Amended January 15, 2019 and December 10, 2019.**

B. Probationary Performance Evaluation

A probationary employee will be evaluated at the end of two months and the end five months during the six-month probationary period. If any one of the evaluations is rated as being unsatisfactory, it may be considered grounds for immediate dismissal.

C. Anniversary Date

The date on which an employee is granted an earned salary increment. The date is the first day of the month next following completion of the required period of service.

D. Rights of Probationary Employees

1. Probationary employees who resign in good standing during their initial probationary period shall, upon request, have their name restored in proper rank to the eligibility list. Such action shall not extend the life of the eligibility list or the period of eligibility of the employee.
2. Probationary employees who are suspended or dismissed during their initial probationary period shall be notified in writing of the action taken and the reasons therefore. They shall not have the right of appeal.
3. Employees who have permanent status in the classified service, and who have been promoted to a higher class, may be demoted involuntarily during the probationary period to their former class. They shall be notified in writing of the action and the charges against them, and shall have the right of appeal provided in Rule 6.603.B.
4. Permanent employees who are suspended or dismissed or demoted to other than their former class during a probationary period retain full rights of appeal.
5. Probationary employees who are laid off during their probationary period due to lack of work or lack of funds shall have their name restored on the eligibility list. If they are rehired in the same class, any prior time served in probationary status shall be credited toward completion of the probationary period.

6.200 CHANGES IN EMPLOYMENT STATUS

6.201 **Transfer**

Reference: Merit Rule 5.202

A. Transfer Within Classification

Employees may be transferred at their request, or for the good of the service, from one position to another in the same class at the discretion of the division Assistant Superintendent involved. Such action shall not be taken for punitive or preferential reasons. The County Superintendent of Schools, or designee, must approve all such transfers.

B. Transfer to a Related Classification

1. A permanent employee may be transferred to a position in a related class on the same salary range. Such transfers shall be made only with the approval of the Commission.
2. The Personnel Commission shall determine whether classes are sufficiently related to permit transfer between them. It shall consider similarity of duties, minimum qualifications, examination content, occupational group, and promotional field (above and below). The employee must meet the minimum qualifications for the class.

C. Transfer shall not be used as a device to alter the sequence of impending layoff, although employees whose positions are to be eliminated may transfer to other classes as this rule provides.

D. Reasons for any transfer which is not voluntary shall be discussed with employees by their immediate supervisor.

E. Effect on Employment Status

1. Permanent employees who transfer to positions in a class in which they have not previously completed a probationary period shall be considered probationary in that class for a period of six months. At any time during the probationary period, they may be returned to their former class without right of appeal. If an action results in layoff, demotion or reduction in assigned time, the employee will have the same appeal rights as a permanent employee who is demoted or dismissed.

2. Transfers shall not change the employee's salary range and step, anniversary date, accumulated illness leave, or accumulated vacation credit. Transfers shall not adversely affect employees' rights as provided in the law and these rules.
3. Transfers shall have the following effects on seniority:
 - a. Within the same class there will be no effects.
 - b. From one class to another, the employee shall not take seniority credit from a former related class into the new class for service in other classes. Employees shall retain such credit as seniority in the classified service.

F. Procedure for Transfer Request

1. A notification of transfer opportunity will be sent to all permanent employees in that classification. Interested employees must complete a letter of intent and return it to the Human Resources Department within the defined time period.
2. Each time the Human Resources Department receives notice of a vacancy, the appointing authority will be notified of any requests for transfer along with requests for reinstatements.

6.202 **Demotions**

Reference: Education Code 45298/45302, Merit Rule 9.302/6.600

- A. A permanent employee may request voluntary demotion to a vacant position in a class with a lower salary rate. Such requests require the approval of both the current department manager and the manager of the department to which the employee is to be assigned.
- B. Voluntary demotion is a privilege available to probationary employees only in cases when they would otherwise be laid off for lack of work or lack of funds.
- C. Involuntary demotion is a disciplinary action for cause and is subject to the pertinent rules and procedures.

6.203 **Restoration**

Reference: Education Code 45309, Merit Rule 5.108

A. After Resignation

Former permanent employees who resigned in good standing may be reinstated to a vacant position in their former class and status within 39 months of the last date of paid service. They shall be certified along with transfers and new applicants. They also may be reinstated to a vacant position in a lower class, or in a limited-term status in the same or lower class, if qualified. Such actions are discretionary with the appointing authority.

B. After Demotion

Reference: Education Code 45298& Merit Rules 6.401 & 6.402

Employees who have taken a voluntary demotion may be restored to a vacant position in their former class or in a vacant position in a related lower class, as determined by the Commission, within 39 months. Except for demotion(s) taken in lieu of layoff, which are covered under the layoff provisions of these rules, restoration is discretionary with the appointing authority.

C. Status of Restored Employee

Reinstatement or reemployment of a former employee shall have the following effects:

1. Restoration to the former step in the current salary range for the class. If restored to a lower class, employees are placed at a rate closest to that of the step they would be assigned if they were restored to their former class.
2. If restored to permanent status, restoration of accumulated sick leave, longevity rights and seniority as of the date of the separation.
3. After restoration, employees shall receive a new anniversary date, receiving credit for the service contributed between the employee's last anniversary date before separation and the separation date.
4. Restoration of all rights, benefits and burdens of permanent employees in the class to which restored.

D. Clearances of restored employees

Employees who are reemployed or restored after a break in employment may be required to undergo the same employee clearances as a new employee (i.e.: fingerprinting, TB).

6.204 **Changes in Assigned Time**

Reference: Education Code 45136, 45137

A. General Rule

If an employee is required to work in excess of the normally assigned time for thirty minutes or longer per day for twenty consecutive workdays, the assigned time of the position will be changed to reflect the longer hours.

B. Decrease in Assigned Time

A County Office of Education initiated decrease in the assigned hours per day, hours per week, days per year, or months per year of an existing regular position shall be considered a layoff for lack of work or lack of funds. All County Office of Education initiated decreases in assigned time shall be performed in accordance with the layoff procedures in these rules.

6.300 ASSIGNMENT OF EMPLOYEES WITH DISABILITIES
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6.301 **General Policy**

When employees become unable to perform the essential duties of their classification because of illness or injury as determined by medical authority, reasonable accommodation shall be made to place them in a position in which the duties are within their capabilities. Reassignment, if any, shall be at the discretion of the appointing authority, with the approval of the Commission in the cases noted below.

6.302 **Accommodation**

- A. Disabled employees' duties in their regular position may be altered in accordance with their disability. Such changes in duties shall be reported to the Human Resources Director, who shall determine whether the position requires classification study.
- B. Employees with disabilities may accept demotion or transfer to a less demanding class, with the approval of the Commission.
- C. Employees with disabilities may be assigned to a position in a higher class, with the approval of the Commission, but shall receive no salary benefit from such assignment until they can be appointed to the higher class in accordance with the rules and procedures on eligibility and appointments.

6.303 **Effect of Refusal by Employee**

An employee with disabilities may refuse assignments to other classes without effect on their 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.

6.400 PERFORMANCE EVALUATION

6.401 Evaluation Timelines

Reference: Merit Rule 6.102; C.S.E.A. Contract Article 8.1

All classified employees shall be evaluated by their immediate supervisors in accordance with the following schedule:

- A. Probationary employee -- at the end of the second and fifth months of service.
- B. Permanent employees -- at least once each year during the month prior to the employee's anniversary date.
- C. Substitute employees -- may be evaluated by the supervisor at the completion of the substitute assignments.
- D. Special evaluation -- A supervisor may, at any time with the approval of the responsible department manager, issue to an employee a Notice of Commendation or a Notice of Unsatisfactory Service. Such notices shall be made on evaluation forms and shall set forth specific reasons for recognition of outstanding or unsatisfactory service by the employee. The evaluation shall be personally delivered to the employee by their immediate supervisor whenever practical. A copy of the Notice shall be placed in the employee's personnel file and shall be available for review by the hiring supervisor in connection with promotional examinations. Two unsatisfactory special reports may be the basis for demotion, suspension or dismissal.

6.402 Evaluators

Each immediate supervisor under whom the employee has served for sixty working days or more during any rating period shall complete a performance evaluation, even though the employee may have transferred.

6.403 Effect of Evaluations

- A. A summary rating of “does not meet the requirements of the job” on a performance review for a probationary employee may be grounds for immediate dismissal.
- B. An employee shall be eligible for a merit step increase unless the Classified Performance Review receives a summary rating that the “employee does not meet the requirements of the job.”

6.404 **Procedure To Be Followed**

- A. Performance evaluation reports shall be made on negotiated forms, and shall be prepared by the employees' immediate supervisor. The immediate supervisor shall present the performance evaluation to the employee and shall discuss it with them.
- B. The evaluation form shall be signed by the employee to indicate receipt and the employee shall be given a signed copy. When the employee is no longer supervised by the person preparing the evaluation, it may be delivered by certified mail.
- C. Performance evaluation reports shall be filed in the employee's personnel file in the Personnel Office. They shall be available for review, with proper authorization, in connection with promotional examinations and disciplinary action.

6.500 TERMINATION OF EMPLOYMENT
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6.501 **Layoff**

- A. Procedure for Layoff

Reference: Education Code 45298; Merit Rules 6.203, 6.402B, 6.502B

- 1. Layoff shall be affected within a class. The order of layoff shall be determined by length of service within class, plus higher classes. The employee who has been employed the shortest time in the class, plus higher classes shall be laid off first. For all employees "Length of Service" is calculated on date of hire. If two (2) or more employees subject to layoff have equal class seniority, then the determination shall be made by lottery.
- 2. The names of all employees laid off shall be placed upon the reemployment list for the class from which they were laid off. Names on the reemployment list shall be in order of seniority.
- 3. Persons laid off because of lack of work or lack of funds are eligible for 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 County Office of Education during the period of 39 months. See also: 6.203

B. Rights of Employees Laid Off for Lack of Work or Funds

1. Permanent Employee Rights

Reference: Education Code 45298; Merit Rule 8.204

- a. Bumping -- A permanent classified employee who is laid off from a class and who has previous regular service in an equal or lower class shall have the right to bump an employee with less seniority in that class. Seniority shall include the total of the previous service in the equal or lower class plus service in the class from which layoff occurs and in higher classes.
- b. Voluntary Demotion or Transfer -- Permanent classified employees are laid off, despite bumping rights, may accept a voluntary demotion to a vacant position in a lower class or transfer to an equal class provided that they are qualified to perform the duties. The appointing authority must approve the voluntary demotion.

2. Probationary Employee Rights

- a. Probationary employees who are laid off shall have their names restored to the eligibility list.

3. Limited-Term Positions

Reference: Merit Rule 5.306

- a. No regular employee shall be laid off from any position while limited-term employees are retained in positions of the same class unless the regular employee declines the limited-term position.
- b. Limited-term employees may be laid off at the completion of their assignment without regard to the procedure set forth in this Rule.

6.502 **Dismissal for Cause**

A. Permanent Employees

Permanent employees may be dismissed only for cause as detailed in Section 6.601. Permanent employees also have the right of appeal as specified in 6.604.

B. Non-Permanent Employees

Probationary, substitutes, limited-term and provisional employees may be dismissed at the end of a work shift without any right of appeal.

6.503 **Resignation**

When employees desire to resign from their positions, they shall complete a resignation form two weeks prior to the effective date if possible, and submit it to the appointing authority. A copy of such resignation shall be filed immediately by the appointing authority with the Human Resources Director.

A resignation relates only to specific positions from which the employee resigns and does not impair the employee's rights to other positions which they may hold on eligibility lists. Employees who resign shall have their name removed from promotional eligibility lists. A resignation may be withdrawn, by the employee, at any time prior to acceptance by the County Superintendent of Schools or designee. An employee who resigns from a regular position and who desires to be considered as a substitute may notify the Human Resources Director in writing. The employee's name will be placed at the top of current eligibility lists for substitute appointments for which they qualify.

6.504 **Retirement**

Retirement under P.E.R.S.: Classified employees working over 1,000 hours per year (approximately 4 hours per day) will be covered by the Public Employees' Retirement System and Social Security. Employees wishing to retire under this system are required to submit appropriate retirement applications to the Public Employees' Retirement System.

6.600 DISCIPLINARY ACTION AND APPEAL

6.601 **Causes for Suspension, Demotion, Dismissal**

Reference: Education Code 45260/45261; Government Code 12926

- A. No employee shall be suspended, demoted, dismissed, subjected to any form of disciplinary action, sexually harassed, or in any way discriminated against because of the employee's affiliations, race, color, national origin, age, marital status, sex, disabling condition, ancestry, employee organization membership or non-membership and legal activities related thereto, medical condition (as defined in Government Code Section 12926), or religious or political beliefs or acts.

B. Persons employed in the classified service may be suspended, demoted, or dismissed for any of the following causes:

1. Incompetency - A pattern of below standard work performance.
2. Inefficiency - The continued inability to perform the assigned duties of the position.
3. Insubordination - Knowingly refusing to perform lawful and reasonably assigned duties.
4. Inattention to or Dereliction of Duty - A pattern of continued neglect or dereliction in the performance of assigned duties.
5. Willful and persistent violation of the Education Code, of Rules and Regulations, or procedures adopted by the County Office or a department when such procedures are made known to the employee in writing.
6. Knowingly falsifying or withholding any material information supplied on application forms and employment records.
7. Possession of opened alcoholic beverage containers on County Office property, drinking alcoholic beverages on County Office property, or being intoxicated while on duty.
8. The use or possession while on duty of illegal or restricted dangerous drugs, other than prescribed by a licensed physician.
9. Arrested, being formally charged, and convicted on a sex offense as defined in Education Code Section 44010 or determination of as a sexual psychopath pursuant to Education Code 45123, 45124. Conviction of such offense shall result in dismissal.
10. Arrested, being formally charged, and convicted of a narcotics offense as defined in Education Code Section 44011. Conviction of such offense shall result in dismissal.
11. Engaging in political activities during assigned hours of duty.
12. Conviction of a crime involving moral turpitude.
13. Carrying out an unprovoked verbal assault on a pupil, a member of the public, another County Office employee, or a County Office official during assigned hours of duty.

14. Carrying out an unprovoked physical attack on a pupil, a member of the public, another County Office employee or a County Office official during assigned hours of duty.
15. Repeated unexcused absence or tardiness, abuse of leave privileges or absence without notification.
16. Abandonment of Position - Absence of three (3) consecutive working days without notification or permission (and failure to notify the County Office of a valid or acceptable reason for absence).
17. Failure to return to work or notify the County Office within three (3) working days following an authorized leave of absence except in the case of dire emergency.
18. The uninsurability of an employee to drive a County Office vehicle when such is a requirement of the employee's position. Upon notification or confirmation by the County's insurance carrier, discipline under this section shall be handled in the following manner.
 - a. The County shall attempt to reassign the employee within the same class or to a vacant position in a related class (with the approval of the Commission) not requiring operation of a motor vehicle.
 - b. If reassignment is not possible, then the employee may be demoted, pursuant to these rules and regulations.
 - c. If a position does not exist for a demotion to be accomplished, then the employee may be dismissed, pursuant to these rules and regulations.
19. Violation of local, state, or federal law which results in cancellation of suspension of a license required for the performance of assigned duties.
20. Dishonesty, theft, willful misuse for personal gain, willful destruction or mishandling of County Office of Education's property.
21. Ethnic, racial, religious, or sexual harassment of another (Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature, made by someone from or in the work setting as determined by the reasonable standard).
22. Failure to obey a subpoena issued by the Personnel Commission and duly served during assigned hours of duty, or any refusal to furnish testimony or documents, other than self-incriminating, at a hearing or investigation before the Commission or Board of Trustees.
23. Advocacy of the overthrow of the federal, state, or local government by force, violence, or other unlawful means.
24. 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.

25. Conviction of a felony or serious crime or a record of one (1) or more convictions which indicate that the person is a poor employment risk for the particular job which the employee holds in the County Office of Education. A plea, verdict, or finding of guilty, or a conviction following a plea of no contest is to be deemed a conviction within the meaning of these rules.

Reference: Education Codes: 212.5, 230, 44010, 44011, 45260, 45261, 45302, 45303, 45304, 45123, 45124, 45122.1; Gov't Code: 1028; Penal Code: 261; and Health & Safety Codes: 11054, 11056, 11357 - 11361, 11363 - 11364, 11377 - 11382

26. Employment, activity, or enterprise engaged in which is clearly inconsistent, incompatible, in conflict with, or inimical to the duties of a classified employee or with the duties, functions, or responsibilities of the employer.
27. Refusal to take and subscribe any oath or affirmation which is required by law in connection with employment, or for any cause enumerated in Education Code Section 45303 (knowing membership in the Communist Party or advocating the overthrow of the Government).
28. Continuing physical or mental disability after exhaustion of illness leave and leave of absence.

6.602 **Procedure for Disciplinary Action**

Reference: Education Code 44010, 45304, 44011

A. Notice of Proposed Disciplinary Action

1. Prior to taking disciplinary action, the employee must be given a Notice of Proposed Disciplinary Action which must include:
 - a. The effective date of the action.
 - b. A specific statement of charges including, if appropriate, the specific rule or regulation violated.
 - c. The reasons for the proposed action (details of the alleged conduct).
 - d. A copy of the material upon which the action is based.
 - e. Notice of the employee's right to respond prior to formal action (see subsection 2 below).
2. The employee must be given at least three working days following the notice to respond to the charges. The response shall be made in writing and presented to the individual who will effectively recommend whether the proposed action is

taken or not.

- a. A determination of action will be considered only after the employee's response has been considered.
 - b. If the employee does not respond within the time provided the employee will have waived the right to pre-disciplinary action response.
 - c. Such waiver does not affect the employee's right to appeal following the action as described below.
- B. When a regular employee is to be suspended, demoted or dismissed, specific written charges in clear concise language shall be prepared and presented for action by the County Superintendent of Schools or designee.
- C. When formal disciplinary action has been taken by the County Superintendent of Schools or designee, the action and the charges shall be reported to the Human Resources Director, who shall immediately notify the employee and shall report the action to the Commission at its next regular meeting.
- D. Notice to the employee shall include a copy of the charges and a statement of the right to appeal, if any, together with a copy of Rule 6.601.
- E. Notwithstanding the procedures above, when an employee's alleged violations of Section 6.601 are so serious as to require immediate removal from the job site, the employee may be suspended immediately subject to the following conditions:
1. An immediate supervisor or director may suspend an employee for a maximum of two working days in addition to the balance of the day the suspension takes place. Such suspension shall be with pay.
 - a. The supervisor or manager shall verbally inform the employee of the specific acts or omissions causing such suspension, and shall immediately verbally notify the County Superintendent of Schools, the appropriate division Assistant Superintendent, and the Human Resources Director of such suspension.
 - b. If the suspension does not extend into an unpaid suspension as detailed in (2) below, the employee shall not have the right to appeal to the Personnel Commission.

2. The County Superintendent of Schools may suspend an employee without pay for not more than a total of thirty calendar days.
 - a. When the County Superintendent of Schools takes such action to suspend an employee, all of the procedures of this section regarding notice must be followed.
- F. A regular employee charged with the commission of any sex offense as defined in Section 44010 or any narcotics offense as defined in Section 44011 of the Education Code by complaint, information, or indictment filed in a court of competent jurisdiction may be suspended as provided for in Section 45304 of the Education Code.
- G. Dismissal shall cause removal of the employee's name from all employment lists.
- H. Failure to appeal, as provided below, shall make the action of the County Superintendent of Schools or designee final and conclusive.

6.603 Appeal

Reference: Education Code 45301, 45305/45306

- A. A permanent employee who has been suspended, demoted or dismissed, may appeal to the Personnel Commission within fourteen working days after having been furnished with a copy of the written charges by filing a written answer to the charges. Appeal can be made only on the following grounds:
 1. That the procedures set forth in these rules have not been followed.
 2. That the action was taken because of political or religious acts or opinions or affiliations, or of race, color, national origin or ancestry, sex, or marital status.
 3. That there has been abuse of discretion.
 4. That the action taken was not in accord with the facts.
 5. That the penalty invoked is excessive.

- B. A permanent employee who has not served the full probationary period for the class and who is demoted to the class from which promoted, may request an investigation by the Commission. The request must be received within fourteen working days after the receipt of the copy of written charges. The request for the investigation shall be based on one or more of the five grounds provided above for appeals. The Commission shall conduct an investigation only on the grounds set forth in the charges and in the request for the investigation. The investigation process shall not be based upon the procedures for appeals and hearings set forth in these rules. The Commission shall notify the County Superintendent of Schools or designee and the employee in writing of its findings. If the Commission's investigation and findings indicate any discriminatory action, the Commission may order a formal hearing. The decision of the Commission shall be binding on the Governing Board.

6.604 **Hearing Procedure**

Reference: Education Code 45305, 45306, 45307, 45311, 45312, 45313

- A. The Personnel Commission may conduct hearings of appeals or may appoint a hearing officer to conduct the hearing and report findings and recommendations to the Commission.
- B. Hearings shall be conducted in the manner most conducive to determination of the truth, and neither the Commission nor its hearing officer 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 Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of testimony and evidence. It shall base its findings on the preponderance of evidence.
- D. Each side will be permitted an opening statement (Administration first) and closing arguments (employee first). The Administration shall first present its witnesses and evidence to sustain the charges and the employee will then present witnesses and evidence in defense.
- E. Each side will be allowed to examine and cross-examine.
- F. Both the Administration and the employee will be allowed to be represented by legal counsel or other designated representatives.
- G. If requested by the Administration or the employee, the Commission shall subpoena witnesses and/or produce records or other material evidence.
- H. 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.

- I. After it concludes the hearings, whether held in a public or closed session, the Commission may deliberate its decision in closed session. No persons other than members of the Commission, its counsel, and its staff shall be permitted to participate in the deliberations.
- J. The Commission shall render its judgment as soon after the conclusion of the hearing as possible and in no event later than fourteen working days. Its decision shall include the reasons for all charges sustained.
- K. The Commission may sustain or reject any or all of the charges filed against the employee. It may sustain, reject, or modify the disciplinary action invoked against the employee. It may not provide for discipline more stringent than that invoked by the Board.

6.700 GRIEVANCE PROCEDURE FOR MERIT RULE VIOLATIONS

6.701 Definition

- A. A "grievance" is an allegation that the grievant has been directly affected by a misinterpretation, misapplication, or violation of these Merit Rules.
- B. A "grievant" is an employee of the County Superintendent of Schools covered by the terms of these rules with an alleged grievance.
- C. A "day" is defined to mean any day in which the main office of the County Superintendent of Schools is open for business.

6.702 Informal Level

- A. Before filing a formal grievance, the grievant shall attempt to resolve it by an informal conference with the immediate supervisor.
- B. The grievant must initiate this informal process within ten (10) days after the grievant knew, or by reasonable diligence would have known, of the act or omission giving rise to the grievance.
- C. If the grievance is not satisfactorily adjusted within three (3) days, the grievant may proceed to the formal level.
- D. If 6.702.B or 6.702.C above are not followed, it shall be deemed an acceptance of the adjustment at the informal level.

6.703 **Formal Level**

A. **Step I**

1. In the event the grievant is not satisfied with the adjustments at the informal level, the grievant may initiate the formal review process by submitting the grievance in writing on the form prescribed by the Personnel Commission to the immediate supervisor (Appendix B).
2. The written grievance shall be a clear, concise statement of the grievance, including the rule, regulation, policy, or procedure allegedly violated, attachment of all relevant evidence and documentation (including previous level grievance correspondence), and a statement of the specific remedy sought.
3. The immediate supervisor shall communicate a decision in writing within ten (10) days after receiving the grievance. If the supervisor fails to respond within the prescribed period of time, the grievant has an additional ten (10) day period in which to proceed to the next level of the grievance process.
4. Failure by a grievant to appeal a decision within the ten (10) day period following receipt of a proposed decision shall be deemed acceptance of the decision.

B. **Step II**

1. In the event the grievant is not satisfied with the decision at Step I, the grievant may appeal the decision in writing to the next immediate supervisor.
2. This statement shall include a copy of the original grievance and appeal, the decisions rendered and a clear, concise statement of the reasons for appeal.
3. The next immediate supervisor shall communicate the decision, in writing, to the grievant within ten (10) days after receiving the appeal. If there is no response, the grievant has an additional ten (10) day period in which to proceed to the next level of the grievance process.
4. Failure by a grievant to appeal a decision within the ten (10) day period following receipt of a proposed decision shall be deemed acceptance of the decision.
5. In the event that the grievant's immediate supervisor is the Associate Superintendent of Student and Personnel Services, Step III below is to be bypassed, and the grievant may immediately proceed to Step IV of this procedure.

C. Step III

1. In the event the grievant is not satisfied with the decision at Step II, the grievant may appeal the decision in writing to the Associate Superintendent of Student and Personnel Services or designee.
2. This statement shall include a copy of the original grievance and appeal, the decisions rendered and a clear, concise statement of the reasons for appeal.
3. The Associate Superintendent, or designee, shall communicate the decision, in writing, to the grievant within ten (10) days after receiving the appeal.

If there is no response, the grievant has an additional ten (10) day period in which to proceed to the next level of the grievance process.

4. Failure by a grievant to appeal a decision within the ten (10) day period following receipt of a proposed decision shall be deemed acceptance of the decision.

D. Step IV

1. In the event the grievant is not satisfied with the decision at Step III, the grievant may make written appeal of the decision to the Personnel Commission within ten (10) days after receiving a decision from Step III. The appeal shall include a clear, concise statement of the reasons for the appeal.
2. The Commission, at their next regular meeting, shall meet and consider the original grievance, the decisions rendered, and the statement of the reasons for the appeal. It may also receive evidence and testimony from the grievant, administration or other persons with knowledge related to the grievance. The Commission shall reach a majority position as to the facts of a grievance and shall within ten (10) days render a final and binding decision on the grievance.

**CHAPTER 7
ABSENCE FROM DUTY**

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**CHAPTER 7
ABSENCE FROM DUTY**

7.000 GENERAL PROVISIONS

- 7.001 The County Superintendent of Schools or Designee may grant leaves of absence to employees where it is in the interest of:
- A. The welfare of the Santa Cruz County Office of Education.
 - B. The welfare of the employee.
- 7.002 Except as otherwise provided in this Rule, time spent on leaves of absence without pay shall not count toward salary step advancement, toward employee fringe benefit accrual and seniority accrual and shall not be considered a part of the probationary period.
- 7.003 A paid leave of absence shall not affect the continuity of service required for step increases, longevity, or vacation for a permanent employee.
- 7.004 Leave shall not exceed one year in duration except as otherwise provided in this rule, although extensions may be granted in some cases.
- 7.005 The employee shall have the right, when returning from leave of absence mandated by law, to return to the employee's former position; and when returning from an approved permissive leave of absence to be assigned to any position, as determined by management, within the employee's job classification.

7.100 ABSENCE FROM DUTY WITH PAY

7.101 Vacation

A. Accumulation of Vacation

Every regular classified employee, permanent and probationary, shall earn vacation at the prescribed rate as part of their compensation. No vacation pay will be granted during probationary period. Regular employees who are on leave to serve in limited-term assignments during periods when they are not regularly assigned shall earn vacation during such limited-term assignments. Vacation shall also be earned during any paid leave of absence. Vacation hours shall be earned on the first working day of the month. If less than a full month is worked, vacation hours will be prorated accordingly.

1. Members of the classified service working forty hours per week are to accumulate vacation allowance on the following schedule:

1-12 months.....	12 working days annually (8 hours per month)
13-24 months	13 working days annually (8.67 hours per month)
25-36 months.....	14 working days annually (9.33 hours per month)
37-48 months.....	15 working days annually (10.00 hours per month)
49-60 months.....	16 working days annually (10.67 hours per month)
61-72 months.....	17 working days annually (11.33 hours per month)
73-84 months.....	18 working days annually (12.00 hours per month)
85-96 months.....	19 working days annually (12.67 hours per month)
97-108 months.....	20 working days annually (13.33 hours per month)
109-120 months.....	21 working days annually (14.00 hours per month)
Over 120 months.....	22 working days annually (14.67 hours per month)

For those working less than forty hours per week, or less than 12 months per year, a vacation allowance is granted for that portion of the employee's work schedule in ratio to forty hours per week or the twelve month work year. Earned vacation may be used upon completion of the six months' probationary period with the approval of the employee's immediate supervisor and the County Superintendent of Schools. Earned vacation becomes a vested right upon the completion of the initial six months of continuous employment.

2. To calculate vacation accrued, a new hire who is employed on or before the fifteenth (15th) day of a month shall accrue vacation as of the first of that month. A new hire who is employed after the fifteenth of a month shall accrue vacation as of the first of the following month.
3. Vacation credit may be accumulated to a total not exceeding that which the employee could earn in two years. When employees have accumulated two years' vacation credit they will be notified in writing that they have accumulated the maximum allowable number of days as specified in 7.102A.
4. When employees have accumulated the maximum allowable vacation credit and when a critical emergency prevents them being off duty, the nature and duration of the emergency shall be reported to the County Superintendent of Schools. The County Superintendent of Schools may authorize payment in lieu of vacation earned above the maximum or may permit the accumulation of excess vacation credit for the duration of the emergency.

B. Scheduling of Vacation

Vacations are to be taken in accordance with a schedule prepared by the department supervisor with regard to the operation of the department. Effort shall be made to enable vacation to be taken at times convenient to the employee, consistent with the needs of the service and the work load of the department. If there is conflict between employees requesting vacation, preference shall be given to the employee having greater County Office hire date seniority. In the event a schedule cannot be developed, the County Superintendent of Schools or Designee will assist in resolving the issue.

C. Compensation for Vacation

1. The rate which vacation is paid shall be the employee's current rate. An employee currently on an approved vacation suffers no loss of earned vacation credit if changes in conditions of employment occur during that vacation.
2. Upon separation from the service, employees shall be paid for their accumulated vacation credit at their current rate of pay. Employees who have not completed six months of employment in regular status shall not be entitled to such compensation.
3. In the event that more vacation has been used than earned upon termination of service, the final warrant shall be adjusted to recover all compensated but unearned days of vacation.

D. Illness and Bereavement While on Vacation

1. Classified employees who commence their prescribed vacation period and subsequently become ill or are bereaved before the vacation period has been completed, shall be placed on sick leave or bereavement leave under the following conditions:
 - a. If the illness or bereavement is for three consecutive days or more.
 - b. If the illness or bereavement is such that had the employees been working, they would have been absent on sick or bereavement leave.
 - c. If employees, normally, are required to return to duty immediately following the vacation period.
 - d. If the request is filed with the County Superintendent of Schools within two weeks of the illness or bereavement or within, at the latest, one week of return to duty unless extraordinary extenuating circumstances exist which prevent such filing.
 - e. If the filed request fully outlines the reasons for the request and is fully substantiated to include medical reports in the case of illness.
2. When all or part of an employee's vacation is to be converted to sick or bereavement leave, the appropriate vacation credit shall be restored to the earned-vacation balance. If possible, the employee may use vacation credit in order not to exceed the limit on accrued vacation. In other cases, Section 7.101A3 above, may be applied in order to avoid loss of vacation credit.

7.102 **Sick Leave**

A. Definition

Sick leave is the authorized absence of an employee due to:

1. Illness, injury or exposure to contagious disease.
2. Visit to a licensed medical practitioner for examination, treatment, consultation or therapy.

B. Accumulation of Sick Leave

Reference: Education Code 45191.

1. Each full-time employee shall accumulate 12 days of sick leave per year. Employees who work less than full time and/or for less than 12 months a year shall earn sick leave at a proportional rate based on 12 days sick leave per 12 months of full-time service.
2. Sick leave is accumulated on a fiscal year basis. Employees will be credited at the beginning of each fiscal year with the appropriate amount of sick leave anticipated to be earned for the fiscal year.
3. If an employee does not take the full amount of leave allowed in any year under this Section, the amount not taken shall be accumulated from year to year without limit.

C. Transfer of Sick Leave From Another County Office of Education, School District or Community College District

Reference: Education Code 45202

Any employee of another county office of education, school district or community college district who has accumulated sick leave credit under Education Code 45191 or its successor, may transfer such unused sick leave to the county office of education in the following situations:

1. The previous employment must have been for a period of one calendar year or more;
2. The employment must have been terminated for reasons other than action initiated by the employer for cause; and
3. The employee seeking credit for earned but unused sick leave must accept employment with county office of education, school district or community college district within one year of such termination of former employment.

D. Compensation and Utilization of Sick Leave

1. Pay for any day of sick leave shall be the same as the pay which would have been received had the employee served during the day.
2. Credit for sick leave need not be accrued prior to taking leave by the employee. Sick leave may be taken at any time during the year.
3. New employees in probationary status may only use six days of paid sick leave during their initial probationary period or the proportionate amount to which they may be entitled.

4. Employees who have been placed on sick leave may return to duty at any time during the leave provided that they are able to resume the duties of the position and have provided the notice and documentation required in 7.102E.

E. Responsibility of Employee

1. Notification

- a. At the beginning of sick leave, in order to receive compensation while absent, employees must notify their supervisor of their absence within the first working hour of the day unless conditions make notification impossible. The burden of proof shall be upon the employee.
- b. One day prior to the expected return, employees shall notify their supervisor so that the substitute employee may be released. If employees fail to notify their supervisor and both the employee and the substitute report, the substitute is entitled to the assignment. Employees shall not receive pay for that day. An employee who has been absent for more than 20 working days must notify the County Office of Education at least three working days in advance of returning to work.
- c. An employee absent for five working days or more may be required to present a doctor's statement to their supervisor and/or Human Resources stating the date the employee is able to return to work, with or without limitations.

F. Exhaustion of Sick Leave

1. Utilization of Other Accumulated Leave

After exhaustion of paid leave, an employee who is ill or injured may, upon request, use accumulated vacation (and compensatory time, if provided) to avoid leave without pay.

2. Advance Sick Leave

After exhaustion of all paid leave, a permanent employee may be granted advance additional sick leave upon request and with the approval of the County Superintendent of Schools. The advance sick leave will not exceed the subsequent year's earned sick leave.

G. Return to Duty from Sick Leave

1. Employees who have been placed on paid or unpaid sick leave may return to duty at any time during the leave, provided that they are able to resume the assigned duties. If the leave has been for more than twenty working days, employees must notify their supervisor and/or Human Resources of their return at least three working days in advance.
2. Satisfactory evidence that employees are physically and mentally fit to return to duty, with or without limitations, may be required of anyone who has been absent from duty due to illness or accident.
3. When requested by the County Superintendent of Schools, employees shall undergo a physical or mental examination by a doctor selected by the County Superintendent of Schools, in consultation with the Association. Any cost for such examination not covered by the existing health insurance plan shall be borne by employees who shall be reimbursed by the County Superintendent of Schools upon presentation of the paid bill. Employees shall authorize the doctor to release the results of their fitness for duty to the County Superintendent of Schools.
4. Employees who are still unable to assume the duties of their position at the conclusion of all sick leave and additional leave, paid or unpaid, granted under these rules, will be placed on a reemployment list for a period of thirty-nine months in the same manner as if they were laid off for lack of work or lack of funds.

H. Sick Leave After Termination

When employment with the County Office of Education is terminated, there will be no cash reimbursement for unused, accumulated sick leave. If the employee is transferring to another public entity or subsequently accepts employment, the County Superintendent of Schools or designee will forward a report as to earned but unused sick leave upon the request of the employee. In the event that more sick leave has been used than earned upon the termination of service, the final paycheck shall be adjusted so as to recover all compensated but unearned days of sick leave.

7.103 **Differential Sick Leave Compensation**

Reference: Education Code 45196

- A. Whether an absence is due to illness or job related accident or illness, during the first five months of absence an employee shall be entitled to receive no less than the difference in salary due to the employee had the employee been actively at work and the amount actually paid to the substitute filling the position.

- B. The five month period of this leave shall commence on the first day of absence. Differential compensation shall be paid after exhaustion of industrial accident or illness leave, if applicable, regular sick leave, vacation, compensatory time or other paid leave and shall be paid only for the balance of the five month period remaining after the exhaustion of such paid leaves.
- C. This leave requires monthly certification by the employee's physician, on a form provided by the County Superintendent of Schools, that the employee is physically or mentally disabled and unable to perform the usual duties.
- D. Satisfactory evidence that the employee is physically and mentally fit to return to duty may be required of any employee who has been absent from duty due to illness or accident.
- E. When requested by the County Superintendent of Schools, an employee shall undergo a physical or mental examination by a doctor selected by the County Superintendent of Schools, in consultation with the Association. Any cost for such examination not covered by the existing health insurance plan shall be borne by the employee who shall be reimbursed by the County Superintendent of Schools upon presentation of the bill. The employee shall authorize the doctor to release the results of the examination to the County Superintendent of Schools.

7.104 **Maternity Disability Leave**

This leave commences with the onset of disability due to pregnancy. The employee may claim sick leave pay and differential sick leave compensation for no more than that limited period of time when the employee's physician certifies in writing, on the form provided by the County Superintendent of Schools, that the employee was actually physically disabled from performing duties because of pregnancy, miscarriage, childbirth, or associated recovery.

7.105 **Bereavement Leave**

Reference: Education Code 45194

- A. Employees in the classified service shall be allowed regular pay for up to three working days when absent on account of the death of any member of their immediate family. Bereavement leave with pay shall be extended to a maximum of five days when travel beyond a two hundred and fifty (250) mile radius is necessary in connection with the bereavement.
- B. Member of immediate family means mother, father, grandmother or grandfather of the employee or of the employee's spouse, and the spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister of the employee, grandchild, significant other, or any step-relation of the above group, or any relative living in the immediate household of the employee.

7.106 **Personal Necessity**

Reference: Education Code 45207; Article 14, C.S.E.A. Contract

- A. A classified employee may elect to use ten days a year of sick leave for personal necessities in the following categories:
 - 1. Bereavement leave which may be necessary beyond that authorized in these rules and the law.
 - 2. Accident, involving the employee's person or property, or the person or property of a member of their immediate family.
 - 3. Appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction, and for which no other leave is provided for in these rules.
 - 4. Four hours each school year for visitation of child's school.
 - 5. Other reasons with the approval by the County Superintendent of Schools.
- B. Notice of intent to use this leave shall be given to the immediate supervisor as far in advance as possible. Use of personal necessity shall be reported on a time sheet and be signed by the employee and the immediate supervisor. The immediate supervisor's signature certifies that the procedure regarding this leave has been observed.
- C. "Immediate family" is defined in Section 7.105B.

7.107 **Jury Duty and Witness Leave**

- A. Leave of absence for jury service shall be granted to any classified employees who have been officially summoned to jury duty in local, State, or Federal Court. Leave shall be granted for the period of the jury service.
- B. Leave of absence to serve as a witness in a court case shall be granted when an employee has been served a subpoena to appear as a witness, not as the litigant in the case. The length of the leave granted shall be for the number of days in attendance in court as certified by the clerk or other authorized officer of the court.
- D. In order to receive full pay while on leave, an employee must provide a copy of the subpoena or court certification to their immediate supervisor or Human Resources.
- D. Employees will only be reimbursed by the court for transportation expenses. Any other compensation received as payment should be declined by the employee, or be remitted to the County Office of Education Payroll Department.

- E. Employees who receive a leave of absence under this rule shall make themselves available for work during hours when their presence is not required in court.

7.108 **Absence for Examination**

Employees in the classified service shall be permitted to be absent from duty during working hours in order to take any examination for promotion in the County Office without deduction of pay or other penalty, provided that they give two days notice to their immediate supervisor.

7.109 **Military Leave**

Employees required to be absent from duty for the purpose of ordered military or naval duty shall receive compensation at their regular rate for up to one month. Additional leave without pay not to exceed 180 days shall be granted for U.S. Reserve or National Guard duty. Persons returning to the County Office of Education after military leave in excess of the periods detailed above shall be eligible for reemployment rights under the Federal Uniformed Services Employment and Reemployment Act.

7.110 **Leave to Serve in an Exempt, Temporary, or Limited-Term Position**

- A. Permanent classified employees who accept exempt, temporary or limited term assignment within the County Office shall, during such assignment, be considered for status purposes as serving in their regular position, and such assignment shall not be considered separation from service.
- B. The employee may, with the approval of the appointing authority, voluntarily return to their position or a position in the class of their permanent status prior to the completion of service in an exempt, temporary or limited-term position.

7.111 **Industrial Accident and Industrial Illness Leave**

Reference: Education Code 44043/45192

A. **General Condition for Receiving Workers' Compensation**

Employees in the classified service, who are absent from duty because of an illness or injury defined as an industrial accident or 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 from workers' compensation insurance carrier.

B. Compensation

1. 60 Days of Full Paid Leave: All regular and permanent classified employees who have completed six months of paid service shall be entitled to this leave. An eligible classified employee who is absent from duty from causes which are County Office related industrial accident, injury, or illness shall be entitled to not more than sixty (60) working days in any one (1) fiscal year for each industrial injury, accident, or illness. If the full sixty (60) working days will overlap into the next fiscal year, the employee shall be entitled only to that amount remaining at the end of the fiscal year in which the accident, injury, or illness occurred. Such leave is noncumulative and may be taken only during those periods when the employee would normally have been in a paid status.
2. If the employee is still unable to return to duty after exhausting paid industrial accident leave, the employee shall be placed on paid sick leave if eligible. Accumulated sick leave will be reduced only in the amount necessary to provide a full day's wages or salary, as indicated in the employee's assignment, when added to compensation without penalties from the State Workers' Compensation Insurance Fund.
3. After all paid sick leave has been exhausted following a paid industrial accident leave, an employee may choose to receive pay from accrued vacation, earned compensatory time, or other leave to the extent necessary to make up the employee's regular salary when receiving a temporary disability allowance without penalties from the State Workers' Compensation Insurance Fund.
4. After the expiration of all paid leave privileges, the County Superintendent of Schools may place the employee on an industrial accident leave without pay. The total time of all leave benefits provided under this Rule, including unpaid industrial accident leave, shall not exceed thirty-six months for any one industrial accident or industrial illness.
5. Any employee receiving benefits as result of this section shall, during periods of injury or illness, remain within the State of California unless the County Superintendent of Schools authorizes travel outside the state.

C. Return to Service

1. An employee on industrial accident or illness leave who is not fully released to regular duty may be assigned temporary modified work. Modified work assignments will be within the range of restrictions as outlined by the employee's physician. The objective of modified work is to return the employee position. Employees are responsible for providing their supervisor and Human Resources with a physician's statement of full release.

2. An employee returning from such 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 seniority credit for all purposes while on such a paid or unpaid leave of absence.

D. Reemployment

1. When all paid or unpaid leaves of absences have been exhausted following an industrial accident or industrial illness, if the employee is still unable to return to duty, the employee's name shall be placed on the reemployment list for the class from which the employee was on leave for a period of thirty-nine months in the same manner as if the employee was laid off for lack of work.
2. An employee who has been placed on a reemployment list, as provided herein, who has been medically released for return to duty and who fails to accept an appropriate assignment shall be dismissed.

7.200 LEAVE OF ABSENCE WITHOUT PAY

7.201 General Provisions

- A. Leave of absence without pay may be granted to a permanent classified employee, upon the written request of the employee and the approval of the County Superintendent of Schools or the designated representative, subject to the following restrictions:
 1. Leave of absence without pay may be granted for any period not exceeding one year, except that leave of absence for military service shall be granted as provided by the Education Code and the Military and Veterans Code, and leave of absence for service in the Peace Corps, or the Red Cross, or Merchant Marine during time of national emergency, may be granted for a period not to exceed 24 months.
 2. The employee shall request such leave as soon as practical, but at least thirty (30) days prior to the day on which the leave is to begin. Such a request shall be in writing and shall include a statement as to the purpose of the leave and the dates the employee wishes to begin and end the leave.
 3. The granting of a leave of absence without pay gives to employees the right to return to their classification at the expiration of their leave of absence, provided that they are physically and legally capable of performing the duties. The position may be filled only for the duration of the leave.

4. The duration of such leave shall consist of no more than twelve (12) consecutive months and shall automatically terminate on June 30 of the school year in which the leave is granted. An employee on this leave shall notify the County Superintendent of Schools prior to February 15th of the year during which the leave is being taken that the employee will return to duty the ensuing school year. Failure to comply with this requirement will constitute a resignation on the part of the employee effective at the close of the school year in which the employee is on leave.
- B. The County Superintendent of Schools may, for good cause, cancel any leave of absence by giving the absent employee due notification. The employee may appeal the cancellation to the Personnel Commission which shall investigate and hear the appeal. If an appeal is filed, the leave of absence will remain in effect until action by the Personnel Commission. The Personnel Commission action shall be final and binding.
- C. An employee may make a written request to the County Superintendent of Schools to return to work prior to the expiration date of the leave. The County Superintendent of Schools may approve or reject the request.
- D. Failure to report for duty within five working days after a leave has been canceled or expires shall be considered abandonment of the position and the employee may be terminated by the County Superintendent of Schools. The 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.
- E. If employees' former class has ceased to exist, the employees shall have bumping and reemployment rights, in accordance with their seniority, in the same manner as if they had been laid off for lack of work or lack of funds on the date their leave expires.

7.202 Family Leave

- A. Employees who qualify are entitled to use Family Medical Leave Act (FMLA) leave/California Family Rights Act (CFRA) leave for a maximum of twelve (12) weeks during a twelve (12) month period for the birth or adoption of a child, for the employee's own disability, or to care for a parent, spouse, or child with a serious health condition. ("Child" means biological, adopted or foster child, stepchild, a legal ward or a child of a person standing in "loco parentis" for an adult dependent child. "Parent" means a biological, foster, adoptive, stepparent, legal guardian or other person who stood in "loco parentis" to the employee when the employee was a child.)
- B. FMLA leave will be available for qualifying employees to care for a family member who is an injured service member and is undergoing medical treatment, recuperation, or therapy, is an outpatient of a military medical facility or care unit, for a serious injury or illness incurred in the line of duty during active duty. The qualifying employee may be the spouse, son, daughter, parent or next of kin of the service member of the Armed Forces, National Guard or Reserves. This leave is for as much as twenty-six (26) weeks during a twelve (12) month period.

- C. FMLA leave will be available for qualifying employees who are family members of active-duty National Guard and Reserves members for any qualifying exigency arising out of the fact that the family member is on active duty or called to active duty status in support of a contingency operation. This twelve (12) week leave in a twelve (12) month period may be taken for qualifying exigencies which include: Short- notice deployment; military events and related activities; childcare and school activities; financial and legal arrangements; counseling; rest and recuperation; post-deployment activities; and additional activities not encompassed in other categories but agreed to by both the County Superintendent and/or designee and the employee.
- D. To qualify, a classified employee must have rendered one year of continuous service and have worked a minimum of 1,250 hours in the twelve months immediately preceding the requested leave. For eligibility purposes, full-time ten (10) and eleven (11) month employees are deemed to meet the 1,250 hour test.
- E. CFRA and/or FMLA leave taken for the birth, adoption, or foster care placement of a child must be completed within one year of the qualifying event. If both parents are eligible for CFRA leave and both are employed by the District, the leave will be limited to twelve (12) weeks between the two parents.
- F. Employees are required to give thirty (30) days notice in advance of the need to take this leave when the need is known in advance. When the need for leave is unforeseen, the employee must provide as much notice as is practicable.
- G. CFRA and FMLA leave shall run concurrently, not consecutively.
- H. CFRA and/or FMLA leave may be taken intermittently for medical treatment of the employee or employee's child, spouse, or parent. The employee must make a reasonable effort to schedule the treatment to avoid undue disruption to the County Office of Education's operations.

7.203 Leave of Absence for Study

Reference: Education Code 45381

- A. The County Superintendent of Schools may grant any classified employee a leave of absence not to exceed one year for the purpose of permitting study by the employee or for the purpose of retraining the employee to meet changing conditions within the County Office of Education.
- B. The County Superintendent of Schools may provide that such a leave of absence shall be taken in separate six-month periods or in any other appropriate periods, rather than for a continuous one-year period; provided, that the separate periods of leave of absence shall be commenced and completed within a three-year period. Any period of service by the individual intervening between the authorized separate periods shall comprise a part of the service required for a subsequent leave of absence for study or retraining purposes.

CHAPTER 8
WAGE AND SALARY PROVISIONS

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CHAPTER 8

WAGE AND SALARY PROVISIONS

8.100 DETERMINATION OF SALARY SCHEDULES

8.101 Factors in Salary Schedule Determination

Reference: Education Code 45162, 45261

The Human Resources Director shall prepare recommendations for the allocation of classes to salary schedules for approval by the Commission. These recommendations may take into account the following factors:

- A. Wages and salaries paid for similar work in private industry in the recruitment area.
- B. Wages and salaries paid by other school districts and governmental agencies which may be in competition with the County Office of Education in the labor market.
- C. Other County Offices of Education in the same class category.
- D. The principle of "like pay for like work" within the classified service.
- E. Appropriate differentials between related classes to reflect the differences in duties and responsibilities, as established in the classification plan.
- F. Such other information as the Commission may require.
- G. The ruling of the Personnel Commission will be final.

8.102 Salary Studies

- A. A salary study shall be made:
 - 1. Whenever a new class is created.
 - 2. Every two, three, or four years, of all salaries (classifications) as deemed necessary by the provisions of this section and/or sections 3.200 and 3.300.
- B. Employees, employee representatives, or the administration may request a salary study of a class or classes by directing a written communication to the Commission and setting forth the reasons for the study.

- C. Data obtained in a salary study shall be made available to interested parties, including employee organization representatives. The Human Resources Director shall include a tentative recommendation to, and shall meet and confer with, employee organization representatives and County Office administration.

8.103 **Salary Recommendations**

Reference: Education Code 45162

- A. After making its findings the Commission establishes the salary relationship of one class to another. These salary recommendations are sent to the County Superintendent of Schools. The County Superintendent of Schools may, after negotiations with designated employee representatives, approve, amend, or reject the recommendation, but may not alter the relationships among classes as established by the classification plan.
- B. Salary recommendations shall be based on clear evidence that the class in question is substantially overpaid or underpaid in relation to community rates or alignment with other classes. Nothing in this paragraph shall prevent adjustments in salary based on classification studies resulting from changes in duties and responsibilities, regardless of when changes occur.
- C. When the tasks of a position have decreased or changed to such an extent that the salary range of the position would be decreased, the employee in a position would be placed on a Y-rated salary. The employee will remain at the salary being received when the position was Y-rated until such time as the step and range of the newly rated position is equal to or greater than the Y-rate being received. The employee would then be placed on the regular salary schedule.
- D. By adoption of this Rule, the County Superintendent of Schools reserves the right to increase or decrease the salaries of classified employees at any time during the school year, pursuant to Education Code Section 45162, in accord with its approval of the recommendations of the Personnel Commission.

8.104 **Appeals of Recommendation**

- A. Employees or their representative may appeal the recommendation of the Human Resources Director in regard to the salary of their class. They shall have the opportunity to present their case in writing and orally at a regular meeting of the Commission. The administration shall have the same privilege.
- B. If the County Superintendent of Schools desires reconsideration of salary recommendations, the Superintendent may return the recommendations to the Commission, which shall reconsider them at its next meeting. After reconsideration, the Commission will advise the County Superintendent of Schools of its findings and the reasons therefore.

8.200 APPLICATION OF SALARY SCHEDULES

8.201 Initial Placement

- A. New employees shall normally be appointed at the first step of the salary range for the classification. In cases where there is difficulty in recruiting for a specific position or where it is necessary to secure the appointment of an individual with exceptional qualifications, appointment may be made above Step I. Such appointment must be:
 - 1. Recommended with specific justification by the hiring supervisor;
 - 2. Reviewed for budget impact by the Director of Fiscal Services;
 - 3. Reviewed by the Human Resources Director to determine the effect on other employees in the classification. The Director shall report all such appointments to the Commission at their next regular meeting.
- B. If appointment is approved at a higher step, it will have the following effects:
 - 1. The new employee will not receive a step increase at the completion of probation, but will receive a performance evaluation after one year and will be increased to the next step of the range if performance is satisfactory.
 - 2. If the appointment was made at a higher step because of difficulty in recruiting, all other incumbents of the same class who are at lower steps will be raised to the same step as the new employee.

8.202 Certification From Employment Lists

- A. Upon completion of six months of satisfactory probationary service employees placed on Step I of the range will advance to Step 2 on the first day of the month. Each succeeding step will be attained one year from the preceding step until the maximum in the range is reached. A satisfactory evaluation rating must be obtained for advancement.
- B. When the first day of service falls between the first and the fifteenth day of the pay period (month), the appointment shall be considered as effective on the first day. Appointments made after the 15th of the month shall be considered as effective at the beginning of the next pay period (month).

8.203 **Promotions**

Employees who receive a promotion to a class of a higher salary range shall be placed on that step of the new salary range which provides a minimum of a 5 percent salary increase over their previous salary, provided the increase does not exceed the salary range of the new class. Additional advancement will be at the beginning of the seventh month (after completion of the sixth-month probationary period), regardless of step placement, and at one-year intervals thereafter until the maximum is achieved. Employees appointed to a class with a salary range equal to or below their current range shall not be considered promotional and shall not warrant a salary increase. Placement will be made at the same rate formerly earned by the employees, and will not exceed the maximum of the range of the appointed class. Probationary and permanent employees who are promoted to a different classification must serve a six-month probationary period in the new classification.

8.204 **Demotions**

- A. Permanent Employees who have been promoted to a higher classification may be demoted voluntarily or involuntarily during the probationary period to their former classification. They shall be placed on their previous step of the range prior to the promotion. They shall retain the anniversary date established in the higher class.
- B. A voluntary or involuntary demotion will not affect a permanent employee's right to exercise bumping rights or reduce seniority rights.
- C. The anniversary date of a permanent employee who accepts voluntary or involuntary demotion shall be restored to the last anniversary date prior to promotion.
- D. Permanent Employees who request a voluntary demotion, or who are demoted as a result of disciplinary action, shall be placed on the step of the range of the lower class which is closest to the rate they earned in the higher class.

8.205 **Placement After Leave of Absence**

- A. Upon return from leave of absence, employees shall be placed on the same step of the range for the classification which they had achieved prior to the leave. Step advancement shall be granted when:
 - 1. The time period required for step advancement has elapsed and the employees had served in active duty for at least eighty percent of the working days in their assignment in the required time period prior to the leave; or
 - 2. The law and/or these rules provide that credit for step advancement shall accrue during the leave of absence.
- B. Credit for step advancement shall accrue to regular employees during leaves of absence to serve in classified limited-term assignments in the County Office of Education and during any paid absence and/or industrial accident /illness leaves.

- C. When employees are restored after a leave of absence to their previous salary step, they shall receive credit for step advancement for service prior to the leave. Their anniversary date shall be adjusted accordingly so that they shall be granted step advancement after having completed the amount of service required by Rule 8.202.

8.300 WORK PERIODS AND OVERTIME

8.301 Workday and Workweek

The maximum number of hours of regular employment of an employee is eight (8) hours a day or forty (40) hours a week. However, the County Superintendent of Schools may employ persons for lesser periods of time and may, through authorized administrators, order and authorize employees to work in excess of eight hours in one day or forty hours in one week.

8.302 Rest Period

- A. Each employee shall be entitled to rest periods consisting of fifteen minutes midway through both four-hour periods.
- B. Employees not wishing to take the rest periods may not take longer lunch periods and may not leave their places of employment thirty minutes earlier as a result.
- C. Supervisors are expected to arrange for appropriate times for rest periods of employees under their supervision.

8.303 Overtime Defined

Reference: Article 9.4.1

- B. Overtime is ordered and authorized work time and is defined as time required, suffered, or permitted to be worked in excess of eight (8) hours in one day or forty (40) hours in any calendar week. Employees who are requested to provide services and attend meetings outside of their regular working hours shall be given reasonable notice, and shall be paid for the time spent providing the services at their appropriate rate of pay. For the purpose of computing overtime, the number of hours "worked" includes paid holidays, sick leave, vacation, compensatory time off, or any other paid leave of absence.
- C. All classifications placed on the management salary schedule are exempt from the overtime provisions.

8.304 Compensation for Overtime

Reference: Article 9, C.S.E.A. Contract

- A. All overtime hours, except those overtime hours exceeding twelve (12) hours in one day, shall be compensated at a rate of pay equal to time and one-half the regular rate of pay of the employee. Those overtime hours exceeding twelve (12) in one day shall be compensated at a rate of pay equal to two times the regular pay of the employee.
- C. Compensation time off may be allowed in lieu of cash payment, if mutually agreed by both parties. Compensatory time off shall be earned at a rate of one and one-half times the regular rate. Compensatory time off shall not hinder the services rendered by the County Office of Education. Any dispute as to the hindrance of services shall be resolved by the County Superintendent of Schools or designee. The employee may request compensatory time off in lieu of overtime payment and may be granted such time off with the approval of the employee's supervisor. However, compensatory time off which is not taken shall be paid for in cash at the appropriate overtime rate, and at the employee's rate of pay at the time payment is made. Any unused compensatory time as of October 31 will be paid in December. Any unused compensatory time as of May 31 will be paid in July. Payments shall be made on the December 10 and July 10 supplemental payroll.
- C. At no time shall compensatory time be accrued in excess of ninety (90) hours. Any compensatory time in excess of ninety (90) hours shall be paid to the employee during the next pay period after it was earned.

8.400 HOLIDAY PAY

8.401 Eligibility (Holidays)

Reference: Article 10, C.S.E.A. Contract

- A. All non-management classified employees will be entitled to payment for authorized holidays, provided that they were in a paid status during any portion of the working day immediately preceding or succeeding the holiday.
- B. The designated holidays are guaranteed holidays for all members of the classified service. Employees serving in positions created under Rule 3.106, Weekend/Holiday positions, are exempt from guaranteed holidays.

8.402 Designated Holidays

- A. Holidays shall be granted as negotiated in the C.S.E.A. Unit Contract, Article 10 – Designated Paid Holidays. An additional resource of designated holidays can also be found on the annual adopted calendar for the County Office of Education.

8.403 Compensation

- A. Pay for the holiday shall be at the same rate as the employee would have received had the day not been a holiday.
- B. Classified employees required to work on holidays shall be paid for such work at time and a half.
- C. Classified employees shall be required to work on the regular holiday for which another day is designated pursuant to this section, and for work eight hours or less, shall be paid compensation at their regular rate of pay.
- D. No employee shall be required to work on holidays unless their supervisor has notified the affected employee at least thirty (30) working days in advance of said holiday.
- E. Classified employees must be in paid status any portion of the working day immediately preceding or succeeding the holiday.

8.500 PAYROLL

8.501 Office Roster

The Human Resources Department shall maintain an official roster containing the names and complete employment records of all employees holding positions under the provisions of the Education Code.

8.502 Payroll Audit

The Human Resources Director shall audit all initial assignments and charges of assignments for all classified personnel and, if found to be in accordance with existing law and rules, shall certify the assignment for payment. All changes of assignment, including transfer, change of hours, etc., shall be reported to the Personnel Commission for certification by the Human Resources Director. Each payroll following the initial assignment and certification by the Human Resources Director shall bear the certification of the department authorized to submit the payroll that all payments are in accordance with the original certification by the Human Resources Director.

The Human Resources Director shall make periodic audits of all payrolls. If the Director finds assignments not in accordance with law and rules, the Director shall withdraw certification and order payment stopped.

8.600 BENEFITS FOR PART-TIME EMPLOYEES (Non Health and Welfare)

8.601 **Benefits Explained**

- A. Benefits listed in this Rule, for persons employed less than full time are to be provided as authorized in Education Code Sections 45136.
- B. Sick leave and all other benefits accorded members of the classified service are to be prorated on the basis of assigned hours worked per day as it bears to eight hours, forty hours per week, weeks per month or months to a calendar year.
- C. Vacation pay is provided on the basis of actual hours of paid regular service.

CHAPTER 9
MISCELLANEOUS PROVISIONS

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CHAPTER 9 MISCELLANEOUS PROVISIONS

9.100 EMPLOYER-EMPLOYEE RELATIONS

9.101 **Governing Power**

The County Board of Education, County Superintendent of Schools, and the Personnel Commission, its officers and agents, employees and employee organizations are governed by the provisions of California Education Code (Part 25 - Employees, Chapter I, Article I and Section 45000) and Government Code (Section 3540.)

9.102 **Rights of Public School Employees**

Reference: Govt. Code 3543

"Public school employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. If the exclusive representative of a unit provides notification, as specified by subdivision (a) of Section 3546, public school employees who are in a unit for which an exclusive representative has been selected, shall be required, as condition of continued employment, to join the recognized employee organization or to pay the organization a fair share services fee, as required by Section 3546. If the majority of the members of a bargaining unit rescind that arrangement, either of the following options shall be applicable:

1. The recognized employee organization may petition for the reinstatement of the arrangement described in subdivision (a) of Section 3546 pursuant to the procedures in paragraph (2) subdivision (d) of Section 3546.
2. The employees may negotiate either of the two forms of organizational security described in subdivision (i) of Section 3540.1.

Any employee may at any time present grievances to his or her employer, and have such grievances adjusted, without the intervention of the exclusive representative, as long as the adjustment is reached prior to arbitration pursuant to Sections 3548.5, 3548.6, 3548.7, and 3548.8 and the adjustment is not inconsistent with the terms of a written agreement then in effect; provided that the public school employer shall not agree to a resolution of the grievance until the exclusive representative has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response."

9.103 **Rights of Employee Organizations**

Reference: Govt. Code 3543.1

"Employee organizations shall have the right to represent their members in their employment relations with public schools employers, except that once an employee organization is recognized or certified as the exclusive representative of an appropriate unit pursuant to Section 3544.1 or 3544.7, respectively, only that employee organization may represent that unit in their employment relations with the public school employer. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership.

Employee organizations shall have the right of access at reasonable times to areas in which employees work, the right to use institutional bulletin boards, mailboxes, and other means of communication, subject to reasonable regulation, and the right to use institutional facilities at reasonable times for the purpose of meetings concerned with the exercise of the rights guaranteed by this chapter.

A reasonable number of representatives of an exclusive representative shall have the right to receive reasonable periods of released time without loss of compensation when meeting and negotiating and for the processing of grievances.

All employee organizations shall have the right to have membership dues deducted pursuant to Sections 45060 and 45168 of the Education Code, until an employee organization is recognized as the exclusive representative for any of the employees in an appropriate unit, and then the deduction as to any employee in the negotiating unit shall not be permissible except to the exclusive representative."

9.104 **Civil Liability for Intimidation or Discrimination Against Classified Employees**

Reference: Education Code 45226

Any person who intimidates, coerces, or discriminates in any way against any classified employee for the doing of any act authorized herein shall be personally liable to such employee for all damages suffered thereby and such exemplary damages as the court may allow.

9.200 POLITICAL ACTIVITY

9.201 Political Activity Freedom

Reference: Govt. Code 3207

Any city, county, or city and county charter or, in the absence of a charter provision, the governing body of any local agency and any agency not subject to Section 19251 by establishing rules and regulations, may prohibit or otherwise restrict the following:

- A. Officers and employees engaging in political activity during working hours.
- B. Political activities on the premises of the local agency.

9.202 Disciplinary Action for Improper Political Action

Reference: Govt. Code 3207; Board Policies 1331 and 4118.1

Any employee may be disciplined for improper political activity. Improper political activity includes:

- A. The use of any County Office of Education property, equipment, or facility for any political purpose unless the use thereof is authorized, by law, for such purposes and the employee has obtained prior required approval.
- B. Engage in political activity during assigned hours of employment.
- C. Engage in active campaigning in behalf of any candidate for public office, whether by speaking, soliciting funds or support, distributing handbills, or otherwise, during the assigned hours of employment.
- D. Attempting to gain any advancement or privilege under the Act or these rules through political activity.
- E. Appointing, demoting, or removing, or in any way discriminating against employees or people on any eligibility list because of their permissible political acts, opinions or affiliations.
- F. Coercing or bringing pressure upon any other officer or employee to support or refrain from supporting any political group from any political purpose whatever.

9.203 Personal Candidacy

Any employee may be a candidate for any political office without suffering any loss of employment status in the County Office of Education unless excluded by law or if the provisions of Rule 9.202 have been violated.

9.204 **Leave for Candidacy for Political Office**

Reference: Merit Rule 7.200, Leave Without Pay

- A. An employee who files for a political office may request, and shall be granted, an unpaid leave of absence which shall commence not earlier than one month prior to the concerned election and continue until the election processes have been completed.

9.205 **Election to a Political Office**

If an employee is elected to a political office, and the normal duty hours and responsibilities of the assignment are in conflict with the requirements of elected office the employee may request, and shall be granted, an unpaid leave of absence. The leave shall commence on the date office is assumed and shall terminate not later than thirty days after the last day in the elected office. Reelection to the same office or election to a different office which provides reasonable continuity of elected public service shall cause extension of the approved leave.

9.206 **Intent**

It is the Commission's intent and purpose in enacting these rules to allow employees their lawful privilege of political freedom and activity, but to insure that political activities are not engaged in during normal duty hours and normal duty assignments. The County Office of Education has an obligation to make certain that personnel are aware of their political rights, their ability to exercise those rights. The County Office of Education has duty to insure that its employees do not wrongfully use their duty hours or County Office of Education facilities for political purposes.

9.300 AVAILABILITY OF PERSONNEL FILE

Reference: Education Code 44031; Article 4, C.S.E.A. Contract

9.301 **Availability Explained**

The personnel file of each employee shall be maintained at the central administration office of County Superintendent of Schools. No adverse action of any kind shall be taken against an employee based upon written materials which are not in the employee's personnel file.

9.302 **Right to Inspection**

Materials in an employee's personnel file shall be available for the inspection of the employee, except that such material shall not include ratings, reports, or records which are: obtained prior to the employment of the employee; prepared by identifiable examination committee members; obtained in connection with a promotional examination.

The employee shall have the right to inspect such material in the personnel file, except that listed above, upon request by appointment, providing such request and review are made when the employee is not required to render service to the County Office of Education.

9.303 **Written Notice – Derogatory Material**

Employees shall be provided with copies of any derogatory written material five (5) workdays before it is placed in the employee's personnel file. The employee shall be given an opportunity during normal working hours and without loss of pay to initial and date the material and prepare a written response to such material. The written response shall be attached to the material.

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

Employees have the option of requesting that the County Superintendent of Schools seal derogatory material contained in their personnel file two years after the entry of such material. Said seal shall only be broken at the direction of the County Superintendent of Schools after written notice has been sent to the employee.

9.400 VIOLATIONS

Reference: Education Code 45317

9.401 **Violations Explained**

Any person who willfully or through culpable negligence violates any of the provisions of this article is guilty of a misdemeanor. It also unlawful for any person:

- A. Willfully, by themselves or in cooperation with another person, to defeat, deceive, or obstruct any person with respect to their 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 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.

9.500 AWARDS TO EMPLOYEES

Reference: Education Code 44015

9.501 Awards to Employees Explained

The County Superintendent of Schools may make awards to employees who do any of the following:

- A. Propose procedures or ideas that thereafter are adopted and effectuated, and that result in eliminating or reducing County Office or district expenditures or improving operation; or
- B. Perform special acts or special services in the public interest; or
- C. By their superior accomplishments, make exceptional contributions to the efficiency, economy or other improvement in operations of the County Office.

9.600 DEDUCTIONS IN SALARY PAYMENT AS REQUESTED BY EMPLOYEES

Reference: Education Code 44041

9.601 Written Authorization to Deduct

The County Superintendent of Schools when drawing an order for the salary payment due to employees of the County Office of Education shall, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct.

9.700 REPORTING EMPLOYEE ACCIDENTS

Reference: Board Policy 4120

9.701 Reporting and Medical Treatment

An employee who sustains an accident or injury on the job must immediately report the injury to their supervisor. An Employee/Supervisor Report of Accident/Injury must be completed and forwarded to the appropriate administrator. Pursuant to California's workers' compensation laws, the employee may receive medical treatment from a medical provider on the approved medical panel.

9.800 OUTSIDE EMPLOYMENT RESTRICTIONS

9.801 Outside Employment Restrictions Explained

- A. Members of the classified service are not allowed to engage in outside employment which conflicts or is incompatible with their regular employment by the County Superintendent of Schools.