

# MERIT SYSTEM RULES AND REGULATIONS

for

CLASSIFIED SCHOOL EMPLOYEES



**EL DORADO COUNTY  
OFFICE OF EDUCATION**

Merit Regulations Last Revised on April 24, 2019

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## **Revisions to Merit System Rules and Regulations**

### **Dated December 5, 2018**

Section 3.10.2 Exemption from the Classified Services (Ed. Codes 45256, 45256.5, and 45258)

For further clarification of this revision, please see Personnel Commission minutes for December 5, 2018, posted on EDCOE's website at:

<http://edcoe.org/meetings?tag=personnel%20commission%20merit%20system>

### **Dated February 27, 2019**

Section 3.10.5(C) Restricted Positions and Employees (Ed. Code 45259)

Section 6.30.2(B) Eligibility for Limited-Term Employment

Section 6.30.3(E) Compensation

Section 6.70.13(C) Parental Leave (Ed. Code 45196.5)

Section 8.30.2(B) Overtime Defined

For further clarification of this revision, please see Personnel Commission minutes for February 27, 2019, posted on EDCOE's website at:

<http://edcoe.org/meetings?tag=personnel%20commission%20merit%20system>

### **Dated April 24, 2019**

Section 4.10.3 Elimination of Unfit Applicants, Candidates and Eligibles (Ed. Codes 45122-45124, 45125, 45261 and 45303)

For further clarification of this revision, please see Personnel Commission minutes for April 24, 2019, posted on EDCOE's website at:

<http://edcoe.org/meetings?tag=personnel%20commission%20merit%20system>



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## THE MERIT SYSTEM

Welcome to the El Dorado County Office of Education's Merit System

### **What Is The Merit System?**

The Merit System is a set of rules and procedures, which governs all classified personnel with the exception of Charter Schools and Commission exempt positions. Its fundamental purpose is to ensure that classified employees are selected, promoted, and retained without favoritism or prejudice, on the basis of merit and fitness to perform the duties of the position specification. That once in service at The El Dorado County Office of Education they will be given protection against arbitrary discipline and/or dismissal through rights of appeal to the Personnel Commission.

### **How Did The El Dorado County Office of Education Get a Merit System?**

Rules and procedures for the implementation and maintenance of a Merit System are found in the California Education Codes, Chapter 5, Article 6, Sections 45240 through 45320. Under this code, the El Dorado County Board of Education approved effective February 1, 1970, that a Personnel Commission be established and begin application of and adherence to a set of personnel Merit System Rules and Regulations regulating recruitment, employment, retention, discipline, and promotion of classified employees. Since its inception, the Merit System Rules and Regulations have been a living document undergoing periodic review and revision to meet changes to the Education Code.

### **Goals Of The Merit System Are:**

- ◆ Establish and maintain a classification plan and allocate all inclusive positions within the Classified Service to classes within this plan.
- ◆ Selection of qualified candidates solely on the basis of merit and fitness through a process of open competitive examination.
- ◆ Remove appointments, either at the entry level, senior level or on a promotional basis, from the arena of politics or personal favoritism.
- ◆ All concerned receive notice of position vacancies through public notice and/or announcement, which include duty statement and minimum eligibility requirement.
- ◆ Provides for an on-going system of classification, thereby insuring that personnel are not normally and continuously required to perform duties or work outside of those required by the approved job specification for that position.
- ◆ Requires an impartial salary survey by the Commission with subsequent salary recommendations to the Superintendent based on "like pay for like service" within the concerned labor market.
- ◆ Protects classified employees from arbitrary disciplinary actions through the right of appeal and a formal hearing before a non-biased body (the Personnel Commission).
- ◆ Assures fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race color, national origin, sex, age, religious creed and with proper regard for privacy and constitutional rights as citizens.

**CHAPTER 1**  
**DEFINITIONS AND PRELIMINARY STATEMENT**

**1.10           DEFINITIONS, GENERAL**

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

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

**ACCELERATED HIRING RATE:** An initial hiring rate at other than the beginning of the range for the class, which rate must be specifically authorized by the Superintendent, and notice given to the Personnel Commission, for that particular class. Such rates are based upon anticipated or actual recruitment difficulties. See also Shortened Range.

**ACT:** The Act shall mean those sections of the Education Code of the State of California applying to the merit system for classified employees. It shall include all of the provisions of Division 3, Part 25, Chapter 5, Articles 5 and 6, and such other provisions of the California Education Code that are specifically applicable.

**ALLOCATION:** The official placement of a position in a given class. (Note: Some Merit System organizations use this term to describe placement of a class on the salary schedule.)

**ANNIVERSARY DATE:** The date upon which an employee is granted salary step advancement earned by completion of a required period of service. This is the first day of the pay period next following completion of the required period of service.

**APPEAL:** A protest by an employee regarding an administrative action actually or potentially detrimental to the employee. (Ed. Code 45305)

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

**APPOINTING AUTHORITY:** The El Dorado County Superintendent of Schools or his/her designate.

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

**ARMED FORCES:** For the purpose of military leave of absence, the United States Air Force, Army, Navy, Marine Corps, Coast Guard, Revenue Marine Service, Army Nurse Corps, and Navy Nurse Corps. For the purpose of veteran's credit in an open examination, the United States Air Force, Army, Navy, Marine Corps, and Coast Guard.

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

**ASSIGNMENT BASIS:** Authorized employment in relationship to the number of hours per week and months per year for a specified position.

**BEREAVEMENT LEAVE:** Paid leave of limited duration granted to an employee upon the death of a relative as defined.

**BOARD:** The El Dorado County Board of Education. See County Board.

**BREAK IN SERVICE:** Severance of an individual's employment relationship with the El Dorado County Office of Education and its appointing authority. The break in service may be canceled by subsequent reemployment or reinstatement within 39 months.

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

**CANDIDATE:** A person whose application to take a merit system examination has been accepted following screening of qualifications.

**CAUSE:** Those specific activities, instances of behavior, or events which are listed with these rules or the California Education Code as being subject to disciplinary action.

**CERTIFICATED SERVICE:** All employees required by law to possess credentials issued by the Commission on Teacher Credentialing for the State of California and the positions which are limited to those who possess such credentials.

**CERTIFICATION:** The submission by the Personnel Director of the names of eligibles who may be legally appointed from an eligibility list or from some other source of eligibility to the appointing authority who will make a selection.

**CHANGE OF LOCATION:** The reassignment of an employee from one position to another position in the same class.

**CHANGE OF SERVICE ASSIGNMENT:** An employee's change from the certificated to the classified service, or vice versa.

**CLASS:** A category 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 education and experience, and knowledge and ability are required of incumbents; substantially the same test of fitness may be used in selecting qualified employees; the same salary range may be applied with equity. Though defined as a group of positions, a class may consist of just one position when no equivalent position exists in the service.

**CLASS SPECIFICATION (ALSO KNOWN AS JOB SPECIFICATION OR JOB DESCRIPTION):** A formal statement, approved by the Personnel Commission, of the nature and level of duties and responsibilities of the positions in a class, and containing the qualification requirements of the positions in the class.

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

**CLASSIFIED SERVICE:** All positions and employees to which the merit system provisions of the California Education Code apply and which are not exempted from those provisions.

**COMMISSION:** The three-member Personnel Commission, for the El Dorado County Office of Education, established pursuant to this Act and the merit system provisions of the California Education Code.

**CONCERTED LABOR ACTION:** Any strike, picketing, sick-out, slow-down, stoppage or other refusal by employees, individually or collectively, in connection with a labor dispute, to perform the services for which they are employed.

**CONCURRENT ASSIGNMENT:** The short-term assignment of two regular incumbents to the same position at the same time, for the purpose of giving a successor an opportunity to obtain on-the-job orientation from an incumbent who is leaving.

**CONDITIONAL EMPLOYEE:** A provisional employee who does not meet the entrance qualifications for the class and who is, therefore, ineligible to compete in a merit system examination for that class at the time of his/her conditional provisional appointment.

**CONTINUOUS EXAMINATION:** A procedure authorized by the Personnel Commission for the frequent testing of applicants for designated classes. (Ed. Code 45292)

**COUNTY BOARD (ALSO KNOWN AS GOVERNING BOARD):** The El Dorado County Board of Education.

**COUNTY OFFICE or OFFICE:** The El Dorado County Office of Education.

**DAY:** The period of time between any midnight and the midnight following. A day is one in which the El Dorado County Office of Education is open for official business.

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

**DIFFERENTIAL or DIFFERENTIAL PAY:** Salary allowance in addition to the authorized salary step or flat rate based upon additional skills, responsibilities, or night work. Differential can also refer to the size of the interval between steps on a salary schedule, salary ranges, or rates of related classes.

**DISCHARGE OR DISMISSALS:** Separation from service for cause.

**DUAL CERTIFICATION:** A procedure authorized by the Personnel Commission under specific conditions, which provides for simultaneous certification from an open eligibility list and a promotional eligibility list according to examination scores.

**DUTIES STATEMENT:** A listing of the specific duties assigned to an individual position. Also known as a position description.

**EARNED SALARY STATUS:** For a permanent employee who has resigned, been laid off, or taken a voluntary demotion or reduction to limited-term status, the current flat rate of or the highest step achieved in a class in which the employee had permanency and a regular assignment at the time of termination or reduction.

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

**ELIGIBILITY LIST:** A rank order list of the names of persons who have qualified in a merit system examination for the selection of classified employees for a specific class. In the event of a tie in scores, more than one name may hold the same rank. (Ed. Code 45300)

**EMERGENCY APPOINTMENT:** A temporary appointment for a period not to exceed 15 working days to prevent the stoppage of business when there is insufficient time to canvass eligibility lists. (Ed. Code 45290)

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

**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, change location, demote, be reinstated or reemployed after resignation, or be restored after voluntary demotion or reduction to limited-term or part-time status.

**ENTRANCE QUALIFICATIONS:** Mandatory and desirable experience and education qualifications prescribed for those who wish to compete in merit system examinations for a specific class.

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

**EXECUTIVE CLASS or ADMINISTRATIVE CLASS:** One of the classes meeting the criteria outlined in the rule on overtime whose incumbents do not receive payment or compensating time off for overtime.

**EXECUTIVE SESSION:** A meeting closed to the public which is called by the members of the Personnel Commission and the Personnel Director to discuss specific matters and which is conducted according to California Law concerning closed meetings. Also referred to as Closed Session.

**EXEMPT CLASS:** A class which is not subject to merit system rules and regulations as prescribed by the California Education Code.

**EXEMPT POSITIONS:** Those positions in the classified service which by Education Code or Personnel Commission action are exempt from the Merit Rules and Regulations. (Ed. Codes 45108.5, 45256.5 and 45272)

**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 two or less interested eligibles remain. A list may be exhausted for part-time positions, yet remain in effect for full-time positions, or vice versa.

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

**FIELD OF COMPETITION:** Those categories of persons authorized by the Personnel Commission to participate in a merit system examination for a specific class.

**FISCAL YEAR:** July 1 through June 30.

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

**EXAMPLE:** A position is full time if the assigned time of a majority of classified employees is 40 hours per week and the assigned time of the position is at least 35 hours per week.

**GRIEVANCE:** An employee complaint concerning conditions of employment, not including appeals of disciplinary actions or requests for classification study or salary review.

**GROUP:** Those classes similar in type of duties and responsibilities or related by other criteria as set forth by the Personnel Commission.

**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. (Ed. Code 45306)

**ILLNESS LEAVE:** Paid or unpaid leave of absence given to an employee because of personal illness or injury. May also be used for short-term leaves for designated reasons.

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

**INDUSTRIAL ACCIDENT or INDUSTRIAL ILLNESS LEAVE:** Absence because of injury or illness which arose out of and in the course of employment with the County Office.

**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. Also known as oral interview. Also the meeting between an eligible and an appointing authority in order to discuss possible appointment to a specific vacancy.

**INVESTIGATION:** A fact-finding procedure related to an appeal or complaint. An investigation is less formal than a hearing. (Ed. Code 45306)

**INVOLUNTARY LEAVE:** Leave of absence resulting from a disciplinary action, which may be paid or unpaid.

**JOB AUDIT:** A personal job evaluation technique in which various combinations of job audit questionnaires, personal interviews and work site observations are used to collect data on the duties, task, and responsibilities of a position. Used as part of the Classification/Compensation study and evaluation process.

**LAYOFF:** Separation from a permanent position because of lack of work or lack of funds, or because the position has been abolished or reclassified, or because an employee has exhausted all leave privileges after illness or injury. A layoff shall include a non-voluntary reduction in hours of employment. (Ed. Code 45308)

**LEAVE OF ABSENCE:** An approved absence from duty, with or without pay, for a prescribed period of time. Leaves in this definition include but are not limited to Personal Leave, Legislative Leave and Industrial Accident or Industrial Illness Leave, and/or Illness Leave.

**LIMITED TERM:** A term used in the California Education Code to designate employment for periods not to exceed six months, or employment during the authorized absence of a permanent employee. (Ed. Code 45286)

**LIMITED-TERM EMPLOYEE:** A term identified in California Education Code 45286 to designate employment for periods not to exceed six months, or employment during the authorized absence of a permanent employee. The employee may have been selected from an eligibility list or may be serving under a provisional appointment.

**LOYALTY OATH:** A statement required of each new employee concerning his support of the United States and California Constitutions, required by State law and local Board Rule.

**MERGING:** The act of combining two or more eligibility lists for the same class, which were established not more than one year apart, in the rank order of the scores of eligibles. Each individual eligibility list within a merged list expires one year after its promulgation.

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

**MILITARY LEAVE:** Authorized absence to engage in ordered military duty.

**MINIMUM QUALIFICATIONS:** See Entrance Qualifications.

**MOST APPROPRIATE ELIGIBILITY LIST:** Designation of an eligibility list as appropriate for certification of names for use in making appointments in an equal or lower class.

**MULTIPLE ASSIGNMENT:** A limited-term classified assignment in addition to a regular classified assignment.

**NEPOTISM:** Favoritism shown to a relative resulting in appointment on a basis of relationship, not merit. See RELATIVE.

**NOTICE OF UNSATISFACTORY SERVICE:** A form used as a written reprimand. Such notice may be used to lay a foundation for progressive discipline and/or taking disciplinary action.

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

**OVERTIME:** Authorized time worked by an employee in excess of eight hours a day and 40 hours a week, or in excess of five consecutive days in a workweek for employees who work an average of four hours or more per day. An employee who works an average of less than four hours a day is paid overtime or provided with compensating time off for authorized time worked on the seventh day of his workweek.



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

**PERFORMANCE EVALUATION:** (As a Verb) An evaluation of the work and conduct of an employee. (As a Noun) The form used for this purpose.

**PERMANENT EMPLOYEE:** An employee who has completed a probationary period in a class in the classified service. (Ed. Code 45269)

**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.

**PERSONAL NECESSITY LEAVE:** Leave which may be taken for reasons of personal necessity as specified in these Personnel Commission rules and the California Education Code 45207. Such leave is charged to the employee's sick leave and is limited to six days a fiscal year.

**PERSONNEL COMMISSION:** Three members appointed in accordance with California Education Code Sections 45240 through 45252 which outline the provisions and responsibility for maintenance of the merit system for classified employees. Also referred to as "Commission".

**POSITION:** A group of duties and responsibilities assigned by competent authority requiring the full or part-time employment of one person. A position can only be established by action of the Superintendent.

**POSITION DESCRIPTION:** See Duties Statement.

**PROBATIONARY PERIOD:** A trial period of six months, following appointment to a regular position in a class, except for classes designated by the Commission as executive, administrative, or management for which the probationary period may be one year. (Ed. Code 45270 and 45301)

**PROFESSIONAL EXPERT:** A person employed in a professional capacity for a specific limited-term project; such persons are excluded from the classified service. (Ed. Code 45256)

**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:** An eligibility list resulting from a promotional examination limited to qualified permanent employees of the El Dorado County Office of Education. (Ed. Code 45281)

**PROVISIONAL APPOINTMENT:** An appointment made in the absence of an appropriate eligibility list, not to exceed 90 working days except in specified circumstances. (Ed. Code 45287, 45288, and 45289)

**PROVISIONAL EMPLOYEE:** A person employed under a provisional appointment.

**RANK:** Position on an open or promotional eligibility list. All candidates with the same final score from the examination and credit process are rendered to the same rank.

**REALLOCATION:** Movement of an entire class from one salary schedule, or range, or hourly rate to another salary schedule, range, or hourly rate on the basis of either internal or external alignment or a change in the salary-setting basis for the class.

**RECLASSIFICATION:** The removal of a position or positions from one class and placement into another, usually based on a change in duties, responsibilities, or class concept. (Ed. Code 45285)

**REEMPLOYMENT:** Return to duty of an employee who has been laid off. Also applies to employees who return to duty for a limited period after retirement. (Ed. Code 45298 and 45308)

**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 positions, exhaustion of illness or industrial accident leave privileges, or other reasons specified in the Rules of the Personnel Commission, 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. In certain specific cases of reduction in class or time in lieu of layoff, the period of reemployment is extended an additional 24 months. (Ed. Code 45308)

**REGULAR APPOINTMENT:** An appointment to a position of more than six months duration made from an eligibility list or from some other list of persons who are legally qualified; e.g., reemployment or reinstatement.

**REGULAR EMPLOYEE:** An employee who has probationary or permanent status in the classified service.

**REINSTATEMENT:** A reappointment (discretionary with the Superintendent) after resignation within 39 months after the last paid service, without examination, to a position in one of the employee's former classes or in a related lower class, with restoration of certain employee benefits. Also refers to a return to work after appeal from disciplinary action when so ordered by the Personnel Commission. (Ed. Code 45309)

**REJECTION:** The refusal to accept an application or examine an applicant, candidate, or eligible, or the removal of an eligible's name from an eligibility or substitute list.

**RELATIVE:** Persons related by blood, marriage, or adoption and includes husband, wife, father, mother, son, daughter, brother, sister, half-brother, half-sister, grandparent, grandchild, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, uncle, aunt, nephew, niece, and first cousin.

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

**RESTRICTED:** Positions whose incumbents must be from low-income groups or from designated geographical areas or who have mental or physical handicaps or meet other specified criteria. A person in a restricted position is not entitled to employment permanency or seniority credit and shall not be eligible for promotion into the regular classified service until they have met the requirements of California Education Code 45105 subdivision(c). (Ed. Code 45259)

**RETURN TO FORMER CLASS:** A reappointment to one's former class within 39 months after a termination of one's assignment to that class.

**RIGHTS:** A benefit which is bestowed by law or rule and which must be granted.

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

**SALARY RATE:** A specific amount of money paid for a specified period of service, i.e., dollars per hour, pay period, or month, including any long-term differential.

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

**SALARY STEP:** One of the salary levels within the range or schedule of rates for a classification.

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

**SENIORITY:** Status secured by length of service. Used for determining order of layoff and calculating points for employees taking promotional examinations.

**SEPARATION:** Leaving a position; includes resignation, dismissal, layoff, retirement, etc.

**SERIES:** A number of classes closely related in occupational hierarchy and arranged in a list in order to indicate occupational levels in a group.

**SHIFT:** The number of hours worked and shall include a duty-free meal period of not less than one-half hour which, in the case of a 7 or 8 hour shift, shall occur approximately at the midpoint of the shift. Is not applicable to employees working six hours or less or assigned to a split shift.

**SHIFT DIFFERENTIAL:** Additional pay for night work equivalent to 5% higher than the rate for daytime employees if one-half or more of the shift is between the hours of 5:00 p.m. and 7:00 a.m.

**SPECIAL PHYSICAL INJURY LEAVE OF ABSENCE:** A form of industrial accident leave granted to an employee with pay, regardless of length of service, because of an injury resulting from an act or acts of violence, which occurred during the course of the employee's duty.

**STARRED RATE or "Y" RATE:** A rate above the established rate or range of salary for a class, paid under certain circumstances to specified employees upon authorization by the Personnel Commission, in accordance with established rule.

**STATUS:** Character of employment in the Classified Service or in a class, with the following categories:

Regular: Based upon appointment of a fully qualified person to a position of more than six months duration. Sub-categories are probationary and permanent.

Limited-Term: See definitions of "limited-term" and "limited-term employee", above.

**STEP ADVANCEMENT:** Movement to a higher step of the salary range or schedule for a class as a result of having served the required number of months and/or days in paid status.

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

**SUSPENSION:** Temporary removal of an employee from a position for cause without pay or pending investigation of charges made against an employee pursuant to California Education Code 45304.

**TEMPORARY MILITARY LEAVE:** Ordered military leave of not more than 180 calendar days, including travel time.

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

**UNCLASSIFIED SERVICE:** All positions and employees not in the classified or certificated service; i.e., those exempted by law. See Rule 3.10.

**UNSATISFACTORY SERVICE:** The performance of assigned duties in a manner which is detrimental to the good of the service or the failure to perform them, or the performance of actions while on duty which are detrimental to the good of the service.

**VETERAN'S CREDIT:** Five additional points added to a passing score in entrance examinations for military or related service rendered during the time of war or national emergency. An additional five points is added for disabled veterans. (Ed. Code 45296)

**WAIVER:** The voluntary relinquishment by an eligible of a right to be considered for appointment from an employment list in one or more positions, locations, or for a specific or unlimited period of time.

**WORKDAY:** That part of a 24-hour period during which an employee is scheduled to work in accordance with the employee's specific assignment.

**WORKING DAY:** Any day for which an individual employee receives compensation, regardless of the number of hours in a day for which the El Dorado County Office of Education is open for business.

1. A work shift that begins in one day and ends in the succeeding day shall be considered one working day.
2. A calendar day for which only overtime compensation is received shall not be considered a working day.

**WORKWEEK:** Forty hours, usually served in five consecutive days within a seven-day cycle, is the regular workweek for the majority of classified employees.

**WORK YEAR:** The portion of the year for which work is authorized.

**Y RATE:** When the tasks of a position have decreased or changed to such an extent that the salary 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 time as the step and range of the newly-rated position is equal to or greater than the Y-rate salary being received. See STARRED RATE.

## **1.20 PRELIMINARY STATEMENT**

### **1.20.1 Statutory Authority for These Rules (Ed. Code 45260 and 45261)**

The rules contained herein are established pursuant to the authority of the Personnel Commission under Article 6 (Merit System), Chapter 5, Part 25 in Division 3 of the California Education Code, commencing with Section 45240. (Note: It is recognized that certain of these rules venture into substantive matters within the prerogative of the Superintendent. For that reason, the initially adopted set of rules and regulations were submitted to the County Board for its approval.)

It shall be the policy of the Commission to submit all new rules or amendments or deletions of existing rules to the Superintendent when:

- A. The rule obviously requires Superintendent approval, and
- B. It is difficult to define the division of Commission and Superintendent authority regarding the rule in question. In such cases, the rules shall not become effective until it has been approved by the Superintendent.

### **1.20.2 Interpretation and Application of Rules (Ed. Codes 45260 and 45261)**

The Commission recognizes that no set of rules can contemplate all possible combinations of circumstances affecting particular cases. These rules are to be applied with consideration of their intent; however, specific, applicable provisions of the rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases. The Commission is open to responsible suggestions to amend the rules with prospective application; however, no rule amendment or new rule shall have retroactive applicability.

1.20.3 Head Start Policy Council

The Personnel Commission recognizes the role and responsibility of the Head Start Policy Council regarding employees of the Head Start Program. Appropriate Federal Regulations will apply in such instances.

Nothing in this acknowledgment infringes upon the rights of Head Start Employees in exercising such rights through appropriate and lawful means.

1.20.4 Generic Terminology

As used in these rules, the term "his" refers to the feminine as well as the masculine. Singular terms shall be construed to include the plural, and plural terms shall be construed to include the singular.

1.20.5 Judicial Review

In the event that judicial review or a change in law invalidates any portion of these rules, such finding or amendment shall not affect the validity of the remainder of the rules.

1.20.6 Effect of Data Contained in Addendum to Rules

The salary schedule and related data, class placement on the salary schedule, a 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.

1.20.7 Printing and Distribution of Rules (Ed. Code 45262)

The rules of the Commission and copies of related provisions of the Education Code shall be printed and made available at each permanent work-site through Lead Secretaries, Program Managers, Administration, C.S.E.A. and those concerned with the enforcement of these rules.

**CHAPTER 2  
THE PERSONNEL COMMISSION**

**2.10 ORGANIZATION OF COMMISSION**

2.10.1 Qualifications for Personnel Commissioners (Ed. Code 45244)

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

- A. a registered voter,
- B. a resident within the territorial jurisdiction of the El Dorado County Office of Education, and
- C. a known adherent to the principles of the Merit System.

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

2.10.2 Appointment of Personnel Commissioners (Ed. Code 45245)

One member of the Commission shall be appointed by the Superintendent and one member nominated by the classified employees of the County Office of Education, who shall be appointed by the Superintendent. These 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 classified employees of the El Dorado County Office of Education.

2.10.3 Terms of Commissioners (Ed. Code 45247) (Revised 11/08)

The term of each Commissioner is for three years and expires at noon, December 1. The term of one Commissioner expires each year. On or about August 1 of each year the Personnel Director shall notify the County Board of the name and address of the Commissioner whose term will expire and whether or not he/she will accept reappointment. The notification shall also list the appointing authority and indicate that the Board must follow the provisions of Education Code Section 45248.

2.10.4 Vacancies (Ed. Codes 45248 and 45249)

- A. Appointment to vacancies occurring subsequent to the expiration of the term shall be made by the original appointing authority either for a full term or to fill an unexpired term.

- B. When a vacancy will exist on December 1 and the vacancy is the Personnel Commission's appointee, not later than September 30, the Personnel Commission shall:
  - (1) Publicly announce the name of the person it intends to appoint or reappoint;
  - (2) At a meeting to be held after 30 days and within 45 days from the day the intended appointee is announced will, in open hearing, provide the public and employees and employee organizations the opportunity to express their views on the qualifications of each candidate recommended for the vacancy. Each candidate shall be invited to this meeting.
  - (3) The Personnel Commission may make their appointment or may make a substitute appointment or recommendation without further notification or public hearing.
- C. Public announcements and hearings within the times specified are required for Personnel Commission appointee vacancies occurring at any time.
- D. In accordance with Ed. Code 45248, when a vacancy exists, the Superintendent at the request of the personnel director shall make an interim appointment for up to 60 days so as to insure the continuance of the functions of the Personnel Commission.

2.10.5 Officers

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

2.10.6 Quorum and Majority (Ed. Code 45247)

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

**2.20 MEETINGS**

2.20.1 Regular Meetings (Government Code 54954) (Revised 10/24/12)

The Commission shall meet on the Fourth Wednesday of each month in a designated room at 6767 Green Valley Road. At its first regular meeting following December 1 of each year, the Commission shall set their regular monthly meeting date and time. When the regular meeting date falls on a holiday, the Commission shall meet on the Wednesday immediately following, unless at a prior regular meeting it designates some other day for its meeting.



2.20.2 Adjourned Regular Meetings

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 meetings.

2.20.3 Special Meetings (Government Codes 54956 and 54956.5)

- A. 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 representatives of CSEA Chapter #488 as the recognized employee 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. The order 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.
- B. In the case of an emergency situation which disrupts or threatens to disrupt public facilities, an emergency special meeting may be called without requiring the 24-hour notice.

2.20.4 Public Meetings

- A. All regular and special meetings of the Commission shall be open and public, and all persons shall be permitted to attend any meetings of the Commission, except as provided in Rule 2.20.5.

This rule shall not be construed as permitting employees to be absent from duty to attend Commission meetings.

- 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.

2.20.5 Closed Session

- A. The Commission may hold closed sessions to consider the employment or dismissal of any employee or to hear complaints or charges brought against any employee, unless such employee requests a public hearing. The Commission shall not, where practicable, consider any matter in closed session

relating to any employee unless the employee has been notified of his right to a public hearing and has declined the public hearing or failed to properly request same.

- B. Closed sessions shall be convened to open session prior to adjournment and action taken during such closed session shall be announced.

2.20.6 Agenda and Supporting Data

Insofar as possible, at least 72 hours prior to every regular meeting or 24 hours prior to every special Commission meeting, the agenda shall be provided to Personnel Commission members and made available to the designated representatives of employee organizations representing County Office of Education classified employees. The agenda will also be posted in a public access area for the community. When practical, supporting data will be furnished in advance.

2.20.7 Prescribe and Amend Rules (Ed. Code 45260)

- A. The Personnel Commission shall prescribe and amend such rules as may be necessary to insure the efficiency of the service and the selection and retention upon a basis of merit and fitness.
- B. The rules shall not apply to bargaining unit members if the subject matter is within the scope of representation as defined in Section 3543.2 of the Government Code and is included in a negotiated agreement between the Board and the bargaining unit.
- C. The rules shall be binding upon the Superintendent, but shall not restrict the authority of the Superintendent provided by the Education Code.
- D. All proposals to amend, delete, or add to these rules will be considered at a "first reading" during the meeting in which they are first presented to the Commission. Action on a proposal may be taken at a "second reading". No rule or amendment which would affect classified employees who are represented by a certified or recognized exclusive bargaining representative shall be adopted by the Commission until the exclusive bargaining representative and the County Superintendent of Schools have been given reasonable notice of the proposal.
- E. At the "first reading" the Commission shall set a date for Commission action on the proposal, which date shall not be less than two weeks later. It shall also inquire into the nature of the notices and record any comments and recommendations from interested persons and organizations for consideration.

- F. The Personnel Commission may waive the above procedure if it finds that an emergency exists or it finds that compliance with the established timelines will result in an impact on the office which is inconsistent with the aims and principles of the Merit System.
- G. Insofar as possible, interested parties shall submit their reactions to proposals in writing on or before the agenda deadline dates specified in Rule 2.20.6 and shall have the right to present reactions to the Commission orally at the appropriate Commission meeting.

2.20.8 Minutes (Ed. Code 45266)

- A. The Personnel Director shall record in the minutes the time and place of each meeting, the names of the Commissioners present, all official acts of the Commission, and the votes of the Commissioners. When requested by him/her, a Commissioner's dissent or approval and his reasons 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 Personnel Commission members and distributed in accordance with Rule 1.20.7.

2.20.9 Payment for Meeting Attendance (Ed. Code 45250) (Rev. 8/15/12)

- A. Each Commission member shall receive the sum of \$40.00 for each meeting attended, including regular, adjourned, or special meetings, but not to exceed a total of \$75 per month. (This section approved by County Board of Education at its June 5, 2012 meeting as required by Education Code Section 45250.)
- B. Commission members shall be reimbursed for actual and necessary travel expenses in accordance with Board policy.

**2.30 COMMISSION EMPLOYEES**

2.30.1 Status of Commission Employees (Ed. Code 45264)

- A. The Personnel Director and other persons required to carry out the responsibilities of the Commission shall be appointed by the Commission from duly established eligibility lists and be responsible to the Personnel Commission. The Commission is responsible for fixing the duties of such positions, evaluating incumbents' job performances, and may discipline such employees.
- B. Such employees shall be classified employees and accorded all the rights, benefits, and burdens thereof.

2.30.2

General Duties of the Personnel Director

- A. The Personnel Director shall perform all duties and carry out all functions imposed upon him/her by law and these rules and shall be free of prejudgment or bias in order to ensure the impartiality of the Commission.
- B. The Personnel Director shall not advise or make recommendations to the Commission regarding any disciplinary action appealed to the Commission under Education Code Section 45305, if the Personnel Director is the party who brought the action against the employee.
- C. The Personnel Director shall act as secretary to the Commission and shall issue and receive all notifications on its behalf.
- D. The Personnel Director shall direct and supervise the employees of the Commission and conduct administrative transactions consistent with the law and rules as necessary to the proper functioning of the office of the Commission.
- E. The Personnel Director shall conduct classification, compensation, and rules studies and shall make such other investigations as directed by the Commission or as he/she deems necessary to his/her responsibilities. He/She may be designated as a hearing officer in accordance with Education Code Section 45312.
- F. In cases where two or more rules or regulations appear to be in conflict, or when no rule provides a clear-cut answer to a problem, the matter shall be decided by the Personnel Director, subject to appeal to the Commission.

**2.40**

**MISCELLANEOUS PROVISIONS**

2.40.1

Communications

- A. Communications and requests shall, insofar as practicable, be in writing. Communications and requests shall be acknowledged and replied to, noting official Commission action when appropriate.
- B. Individuals or groups who wish to present proposals for action by the Commission shall be encouraged to present them to the Personnel Director for placement on the Commission agenda. It is against the policy of the Commission to take up proposals except at open meetings, although the Commission may designate one of its members to investigate a specific subject.

2.40.2 Budget (Ed. Code 45253)

The Personnel Director shall annually prepare a budget for the Commission which will be considered at a public meeting not later than May 30 or at a date agreed upon between the County Superintendent of Schools and the Personnel Commission to coincide with the process of adoption of the County Superintendent of Schools Office budget. The Commission shall forward a copy of its proposed budget to the County Superintendent of Schools indicating the time, date and place for the public hearing of the budget and shall invite Board and County Superintendent of Schools administration representatives to attend and present their views. The budget adopted by the Commission shall be presented to the County Board of Education at its next meeting for their approval.

2.40.3 Annual Report (Ed. Code 45266)

- A. The Personnel Director shall prepare an annual report of Commission activities. When approved by the Commission, the annual report shall be submitted to the Superintendent.
- B. The report shall be prepared for Commission approval as soon after each fiscal year as possible and no later than a meeting in November. The report shall cover Commission activities for the preceding fiscal year.

2.40.4 Counsel for the Commission (Ed. Code 45313)

The legal counsel for the El Dorado County Office of Education shall also aid and represent the Commission in all legal matters. If the matter is one in which the Commission is in conflict with the El Dorado County Office of Education or the counsel refuses, the Commission may employ its own attorney, and the reasonable cost thereof shall constitute a legal charge against the general fund of the office.

**CHAPTER 3  
POSITION CLASSIFICATION PLAN**

**3.10 THE CLASSIFIED SERVICE**

3.10.1 Positions Included

- A. All positions established by the County Board which are not exempt from the classified service by law shall be classified by the Personnel Commission and be a part of the classified service. All employees serving in classified positions shall be classified employees. The employees and positions shall be known as the classified service.
- B. No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exemptions established in the law shall be employed outside the classified service.

3.10.2 Exemption from the Classified Services (Ed. Codes 45256, 45256.5, and 45258) (Rev. 12/5/18)

- A. The following positions shall be exempt from the classified service:
  - (1) Positions which require certification requirements.
  - (2) Full-time students employed part-time.
  - (3) Apprentice positions.
  - (4) Part-time students employed in a college work study or in a work experience education program conducted by a community college district that is financed by State or Federal Funds.
  - (6) Professional experts employed on a temporary basis for a specific project by the County Board, County Superintendent, or by the Commission when so designated by the Commission.

Employment of either full-time or part-time students in a college work study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

B. Special Categories (Ed. Code 45112)

- (1) The County Board may create positions of staff assistants or field representatives to directly assist the board or individual board members. Such positions, if created, are exempted from the provisions of these

rules insofar as they relate to position classification, recruitment, employment, and salary setting.

- (2) Persons employed in such positions shall be members of the classified service for all purposes except that they may not achieve permanency in the classified service. Staff assistants shall serve at the pleasure of the board. A field representative shall serve at the pleasure of the individual board members.
- (3) If a permanent classified employee is appointed to serve in such an exempt position, he/she shall retain status as a permanent employee. If he/she is terminated from the exempt position, he/she shall have bumping rights in his/her former class in the same manner as if he/she had been laid off for lack of work or lack of funds.

3.10.3 Effect of Exemption (Ed. Codes 45108.5, 45256.5, 45258, and 45272)

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

3.10.4 Professional Expert Assignment (Ed. Code 45256)

- A. When a professional expert assignment is to be made, the administration shall submit to the Personnel Director a description of the project, its duration, and the duties to be performed. Professional expert assignments shall not be made to avoid payment of overtime to the assigned employee, nor shall a limited-term position be filled by a professional expert assignment if the duties and responsibilities fit an existing class for which a reemployment or eligibility list exists.
- B. When the person is known who is to be appointed as a professional expert, his/her name and data relative to his/her qualifications shall be submitted to the Personnel Director. In order to be exempted from the classified service as a professional expert, an individual must be recognized as such by reputable members of his/her own profession. Evidence of professional qualifications must be presented to the Commission at the time the written request for temporary appointment is made. Authorization for service as a professional expert shall not exceed six months. Additional required service shall be subject to approval by the Commission.

3.10.5

Restricted Positions and Employees (Ed. Code 45259)

- A. If positions properly a part of the classified service are specially funded and, as a result of the special funding provisions, employment is restricted to persons in low income groups, from designated impoverished areas, mentally, physically or developmentally disabled persons, or other criteria which precludes employment through the normal competitive process, the positions shall, in addition to the assigned title, be designated as "Restricted."
- B. Persons employed in "Restricted" positions shall be classified employees for all purposes except:
  - (1) They may not attain permanent status.
  - (2) They shall not be accorded seniority rights.
  - (3) They may not be given provisional appointments concurrent with status in a restricted position.
  - (4) They are not eligible to compete in promotional examinations in the regular classified service.
- C. Notwithstanding Sub-Rule B above, employees serving in "Restricted" positions may, after completion of six months of satisfactory service, take the next competitive examination that is given for the class in which they are serving. An employee who successfully completes the examination, and attains placement on the eligibility list as a result thereof, regardless of his/her numerical standing on the eligibility list, shall be considered a part of the regular classified service even though he/she may continue to serve in a restricted position. He/she shall be accorded full rights, benefits, and burdens of a regular classified employee. Seniority rights shall be counted as of the date of his initial appointment to the restricted position.

3.10.6

Weekend/Holiday Positions (Ed. Codes 45203, 45204, and 45127)

The Superintendent may create a position or class of positions which require and permit the holders of such position(s) to work only on weekends (Saturdays and Sundays) and holidays. If so created, the Commission shall in classifying the position(s):

- A. Establish a salary scale which recognizes the peculiarity of the work and 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 (8) on any Saturday, Sunday or holiday unless the class is specifically exempted in accordance with Education Code Section 45127, e.g., recreation and security classes.

- C. Ensure that the position(s) being created is/are not being created to avoid payment of overtime to otherwise qualified employees. If it does find that such position(s) is/are being created to avoid overtime payment, it shall refuse to classify the position(s) and will notify the Superintendent accordingly.

### **3.20 GENERAL CLASSIFICATION RULES**

#### **3.20.1 Assignment of Duties (Ed. Codes 45109 and 45276)**

The Superintendent shall prescribe the duties and responsibilities of all positions in the classified service except those on the Personnel Commission staff.

#### **3.20.2 Nature of Proposed Classifications or Reclassifications (Ed. Code 45285.5)**

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

#### **3.20.3 General Nature of the Classification Plan (Ed. Code 45256)**

The Personnel Commission shall, with due advance notice to interested parties, classify all positions in the classified service and maintain a plan of classification. Positions shall be allocated to appropriate classes and classes shall be arranged in occupational hierarchies. Reasonable relationships within occupational hierarchies shall be determined.

The plan shall indicate the class and/or classes in each occupational group which are usually filled by open competitive examination. The Personnel Commission shall, with those classes not so designated, when an examination is ordered, decide whether the examination shall be open, promotional, or a combination thereof.

The list of classes shall contain the salary range applicable to each class.

#### **3.20.4 Class Specification (Ed. Codes 45272, 45276, and 45277)**

- A. For each class of positions as initially established or subsequently approved by the Personnel Commission, there shall be established and maintained a class specification, which may include:

- (1) The official class title;
- (2) A definition of the class, summarizing the type of duties and responsibilities and placement within the organizational scheme;
- (3) A statement of distinguishing characteristics which differentiates the class from other related or similar classes;
- (4) An example of duties to be performed by persons holding positions, including a statement as to the physical effort required in performing these duties in the work environment allocated to the class;
- (5) A statement of the minimum qualifications for service in the class. The minimum qualifications may include education, experience, knowledge, skills, abilities, and personal and physical traits and characteristics;
- (6) License or other special requirements for employment or service in the class;
- (7) Any additional qualifications considered so desirable that any person considered for employment who possesses them may be given additional credit in the evaluation of his qualifications, even though such additional qualifications are not a prerequisite to consideration for employment;
- (8) The date the class specification was adopted or revised.

B. Minimum qualifications may never require certification license or other credential, unless such is required by statute or is based on a bonafide occupational qualification; nor may they require work experience which essentially restricts applicants to credential holders. Job titles may not be assigned that restrict competition to credentialed applicants.

### 3.20.5 Interpretation of Class Specifications

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

A. The definition and examples of duties are descriptive and explanatory only and not restrictive. They indicate the kinds of positions that should be allocated to the respective classes as determined by their duties, responsibilities, and qualification requirements, and do not prescribe what these details shall be in respect to any position. The use of a particular expression or illustration as to duties, responsibilities, qualification

requirements, or other attributes is typical or descriptive of the class and does not exclude others not mentioned but of similar kind and/or quality as determined by the Personnel Commission.

- B. In determining the class to which any position shall be allocated, the specification for each class is considered as a whole. Consideration is 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 should identify its proper relationship to other specifications, particularly those of classes in the same series and group of classes, in such manner as to maintain a proper gradation in the series in which the class is located and proper differentiation within the group of classes.
- D. Qualifications commonly required of the incumbents of all or many offices or positions, such as freedom from disabling defects, citizenship (see Labor Code Section 1940 et seq. for exceptions), honesty, sobriety, and industry, even though not specifically mentioned in the specifications, are implied in the qualification requirement.

This section does not prevent employing the handicapped to meet affirmative action regulations and the requirements of the Americans With Disabilities Act.

- E. The statement of qualification requirements, when considered with other parts of the specification, is to be used as a guide in the announcement and preparation of tests and in the evaluation of the qualification of candidates seeking appointment to positions allocated to the class, but does not require a particular form or content of test or testing procedure.
- F. The class title shall always be used with the meaning set forth in the remainder of the specification.

### 3.20.6 Allocation of Positions to Classes

All positions substantially similar as to the duties performed and the responsibilities exercised by the incumbents of such positions and qualification requirements shall be allocated to the same class.

### 3.20.7 Working Out of Classification (Ed. Code 45110)

If an employee is required to work out of classification for more than five working days in a 15-day calendar-day period, the fact shall be reported to the Personnel Director. The Director shall immediately

cause a study to be made and determine the appropriate class for the duties being performed. The findings of the study shall be reported to the Personnel Commission. The Commission shall review and take such action as may be necessary.

Nothing in this rule shall be construed as permitting an employee to refuse to perform duties legally assigned by competent authority.

3.20.8 Duty Changes and Review of Positions

- A. Any substantial changes in the duties of existing positions shall be promptly reported in writing by the appointing authority to the Personnel Director, who shall cause them to be reviewed toward determining whether the positions should be allocated to different classes.
- B. The Personnel Director shall periodically review the duties and responsibilities of positions as necessary to determine their proper classification and shall cause all positions to be reviewed at least once every three years. If the Director finds that a position or positions should be reclassified, he/she shall advise the administration and exclusive bargaining representatives of his/her findings. If the administration verifies the duties of the position and if they are not revised to fit within the current classification, the Director shall, following due notice to administration and the exclusive bargaining representatives, report the findings and recommendations to the Commission. The Director shall also report to the administration, exclusive bargaining representatives and to the Commission the findings in cases where a review indicates no change in classification is necessary.

3.20.9 Creation of New or Additional Positions (Ed. Codes 45276 and 45285.5)

Whenever a department head proposes that a new or additional position be created, he/she shall report the significant facts in writing to the County Superintendent, who shall make or cause to be made such investigation as he/she believes necessary to determine the need for any change in the number of existing positions. If the County Superintendent decides to recommend the creation of such new or additional positions to the County Board, he/she shall first forward all pertinent data to the Personnel Director and the Personnel Director shall, following due notice to interested parties, allocate each proposed position to an appropriate existing class or recommend the creation of a new class to the Personnel Commission. The Commission 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, approve the minimum qualifications which must reasonably relate to the duties assigned to the position by the Superintendent, and designate

the proper salary placement.

- C. Notify the Superintendent of its action.

3.20.10 Positions Requiring Multiple Languages (Ed. Codes 45277, 45400, and 45401)

- A. The Superintendent 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. The Superintendent or a designee must clearly set forth valid reasons for placing language requirements on a position.
- B. If the Commission determines a position is required to have a bilingual ability, the Commission shall establish an appropriate class specification with the particular requirement.
- C. An announcement calling for an examination for a class with position(s) containing language requirements will contain appropriate information and will indicate that successful candidates possessing the language requirements will be given preference over other successful candidates, as authorized in Rule 5.20.13, but only as to those specific positions.
- D. When a vacancy occurs in a position which has approved language requirements, the Superintendent or a designee will notify the Commission that the need for language requirements continues to be a part of the position.
- E. If a request from the Superintendent or a designee to designate a position for language requirements is challenged, the Commission shall cause a proper investigation to be made and shall consider the findings and all other pertinent data presented by any concerned and responsible source prior to taking final action on the request.

3.20.11 Mandatory Titles (Ed. Codes 45341-45345, and 45347)

- A. All teacher aide classes of positions shall be assigned a basic title of "Classroom Assistant" or other appropriate title designated by the Superintendent. 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. In accordance with education code 45344: An instructional aide shall perform only such duties as, in the judgment of the certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom teacher. 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 his/her charge.

**3.30 RECLASSIFICATION (Ed. Codes 45162, 45260, 45261, and 45285)**

**3.30.1 Requests for Study**

Requests for a reclassification study of existing positions shall be presented to the Personnel Director together with a statement of the reasons for requesting the study. Requests for study may be initiated by the administration, with the approval of the Superintendent, or by employees or employee organizations. Requests initiated by the administration shall be accompanied by a statement of the current authorized duties of the position(s) and any prospective changes.

**3.30.2 Effective Date of Reclassification**

Reclassification of a position shall become effective on the date prescribed by the Superintendent and approved by the Commission. Effective dates may be set sufficiently in the future to allow time for examinations to be completed, but for not more than three months.

**3.30.3 Effects on Incumbents (Revised 10/07)**

- A. For an employee to be reclassified upward with his/her position, the reclassification must have been occasioned by a gradual accretion of duties and not by a sudden change resulting from reorganization or duty changes by the Superintendent. The Commission shall decide at the time the reclassification occurs as to whether it meets this rule.
- B. When all positions in a class are reclassified upward, those incumbents with two or more years' service in the class shall be automatically reclassified with the positions.
- C. When a portion of the positions in a class are reclassified upward, those incumbents with two or more years' service in one or more of the positions being reclassified shall be reclassified with their position(s).
- D. The Commission may require a qualifying examination or other evidence of qualification for those incumbents with less than two years of service in one or more of the positions being reclassified. Incumbents who cannot pass the qualifying examination for the position being reclassified or provide other evidence of qualification will remain in the current classification for up to one year in order to acquire the necessary skills. When an employee meets standards within a one year period, he/she will be reclassified effective on the date they successfully met 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 a position for which they are qualified, or may be laid off from employment.

- E. Except when otherwise stipulated within a Class Specification, an employee who has been reclassified upward shall be ineligible to again be reclassified upward until at least two years have elapsed from the last upward reclassification.
- F. When a position or group of positions is reclassified to a class with an equal or lower wage or salary range, an incumbent shall have the following rights:
  - (1) The right to bump the employee in the same class with the lowest seniority in the class, provided that the incumbent has greater seniority in the class;
  - (2) The right to bump the employee with the least seniority in any equal or lower class in which the incumbent formerly served, provided he/she has greater seniority in that class;
  - (3) The right to be demoted or to transfer without examination to the class to which his/her position is reclassified.

An employee may choose to transfer, demote, or exercise bumping rights at his/her option, and the choice shall not affect his/her right under Rule 3.30.4 below.

#### 3.30.4 Reemployment List for Displaced Incumbents

- A. Any displacement of a regular employee resulting from a reclassification of a position, positions, or class of positions shall be considered a layoff for lack of work, and an appropriate reemployment list will be established in accordance with these rules. The employee shall have the right for reemployment into their previous class for a period up to 39 calendar months as determined by job review under these rules.
- B. This rule shall be followed in all instances of reclassification whether it results in upgrading, downgrading, lateral class movement, bumping, or complete displacement of incumbents.

**CHAPTER 4  
APPLICATION AND EXAMINATION**

**4.10 APPLICATION**

4.10.1 Filing of Application (Ed. Codes 45260 and 45261)

- A. All applications for employment shall be made upon official forms furnished by the Commission, filled out as therein directed, and filed in the office specified in the examination announcement on or before the date specified therein.
- B. Applicants taking more than one examination must file a separate and complete application for each such examination.
- C. For affirmative action and federal/state reporting purposes, questions regarding ethnic/sex/age data shall be placed on a separate or separable attachment to the application. The completion of such questions shall be voluntary.

4.10.2 General Qualifications of Applicants (Ed. Code 45261)

- A. Applicants must be United States citizens or be legally authorized to work in the United States, possessing appropriate work permit cards.
- B. Applicants must meet the minimum qualifications and be mentally and physically able to perform the duties of the position for which they are applying.
- C. Handicapped persons shall be given equal employment opportunity and reasonable accommodation for employment shall be made.

4.10.3 Elimination of Unfit Applicants, Candidates and Eligibles (Ed. Codes 45122 - 45124, 45125, 45261 and 45303)

An applicant or candidate may be refused examination and an eligible may be refused certification of appointment for any of the following reasons:

- A. Failure to meet the general qualifications of Rule 4.10.2 sections A and/or B.
- B. Membership in the Communist Party and/or failure to execute the Oath of Allegiance.
- 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, either by a plea of guilty or nolo contendere, a court decision, or a jury verdict of a narcotics offense, an offense involving moral turpitude, a sex offense, an offense involving mistreatment of children, and various felonies or misdemeanors of a serious nature.
- E. Criminal infamous, dishonest, immoral, or disgraceful conduct according to generally accepted standards of public school agencies, subject to review and approval by the Personnel Commission.
- F. Making a false statement or omitting a statement as to any material fact on the application form.
- G. Dismissal or resignation to avoid dismissal for cause which indicates poor performance in the type of work sought.
- H. Practicing any deception or fraud in connection with an examination or to secure employment.
- I. Drug addiction, and/or use of intoxicating beverages to excess. This section will not apply if the person has been found to be rehabilitated for at least five years.
- J. Previous dismissal from the Office of Education unless the Office waives this subsection.
- K. A record of unsatisfactory service with the Office of Education even if separation has not occurred.
- L. Unsatisfactory health if such would impact successful job performance.
- M. Discharge other than honorable from the Armed Forces of the United States.
- N. Failure to report to duty after an assignment has been offered and accepted.
- O. Any or all causes set forth in the Education Code, or other causes deemed sufficient by the Personnel Commission.
- P. Negative information received during a referral check.

4.10.4 Rejection and Appeal from Rejection (Ed. Codes 45261, 45311, 45312, and 45317)

- A. Applicants, candidates, and eligibles who are rejected for any of the reasons enumerated in Rule 10.3 shall be notified in writing by the Personnel Director. The notification shall state:
  - (1) The reason(s) for rejection.

- (2) That within seven calendar days the individual may appeal the decision to the Personnel Director for review and that failure to appeal for review makes the rejection final and conclusive.
  - (3) That, should the individual appeal, he/she may conditionally take any pertinent examinations pending a final determination.
- B. If there has been a review as provided above, and the rejection is sustained, the individual shall be:
- (1) Given a written notice outlining the reason(s) for sustaining the rejection.
  - (2) Informed of his/her right to make a written appeal of the rejection within seven calendar 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, race, color, sex, marital status, national origin or ancestry.
    - b. Abuse of discretion.
    - c. Inconsistency of the reasons given for the rejection with the facts.
- C. Upon receipt of an appeal, the Commission shall set a date for a hearing, hear all of the evidence, and render a decision. The decision of the Commission shall be transmitted in writing to all concerned and shall be final.
- D. If a rejection is not sustained by the Personnel Director or the Personnel Commission, the Personnel Director shall institute immediate action to insure the rights of the applicant, candidate, or eligible as if the rejection had not been made. However, appointments made in the interim shall not be disturbed unless they were fraudulently made.

4.10.5 Applications Property of County Office

- A. All applications and examination papers are confidential records of the Office of Education and shall not be returned to the applicants.
- B. The names of the applicants in any examination shall be confidential and shall not be made public.

## **4.20 EXAMINATIONS**

### **4.20.1 Examination Barred**

No examination announcement may be made and no part of any examination may be held until the Superintendent has properly approved, if a reclassification, or designated if a new class, the position duties, and the Commission has completed the position classification including the establishment of minimum education and work experience requirements.

### **4.20.2 Types of Examinations**

Examinations may be designated as follows:

- A. PROMOTIONAL- Limited to permanent members of the Classified Service.
- B. OPEN- Open to all applicants who meet minimum qualifications and who are not rejected for cause as outlined in 4.10.3.
- 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 one single eligibility list.
- E. Continuous Examination-(Approved 1/13/04) Continuous open examinations for a given class as determined by the Director and approved by the Personnel Commission may be announced by a single notice. Such examination may be administered from time to time as applicants are available or as appointments are necessary. A single eligibility list shall be maintained to which the names of qualifying candidates shall be added in order of final scores and from which names may be removed after one year.

### **4.20.3 Subjects About which No Questions Shall be Asked (Ed. Code 45293)**

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

### **4.20.4 Promotional Examinations (Ed. Code 45273) (Revised 9/2005)**

- A. Examinations shall, where practicable, as determined by the

Commission, be limited to promotional applicants. When there are fewer than two qualified applicants, it shall be deemed that no promotional field of competition exists, or when there is doubt of its adequacy, the Commission may order an open examination or simultaneously open and promotional examinations. Promotional examinations shall be restricted to permanent employees in the office, or if the probation period is one year, the completion of 130 days of paid service as defined in 6.10.1(A), who meet the prescribed qualifications for the class.

- B. Promotional examinations shall consist only of test parts that relate to job performance. The requirements of Section 4.20.7 are not applicable.

4.20.5 Examinations for Certain Positions or Classes (Ed. Codes 45280 and 45282)

- A. Examinations for the position of business manager or any other single position at or above the level of business manager, shall be held on an open and promotional basis.
- B. When such examinations are held, all permanent employees of the Office (classified and certificated), who meet the minimum qualifications, shall be allowed to compete in the promotional examination.

Final scores of all successful competitors in the promotional examination will be adjusted to add promotional, including seniority, credits.

- C. Final scores of all successful competitors in the promotional examination will be adjusted to add seniority credits.
- D. A single eligibility list will be developed from among the passing open and promotional candidates. Rating will be in accordance with the final score plus authorized credits.
- E. Promotional examinations are not considered "entrance examinations," and veteran credits are not to be included.

4.20.6 Recruitment Bulletins (Ed. Codes 45272, 45277, and 45278)

- A. Whenever it is necessary to fill existing or anticipated vacancies in the classified service and an appropriate eligibility list does not exist as determined by the Commission, the Commission shall direct the holding of an examination to provide eligibles. At least 15 working days advance public notice of such examinations shall be given. The bulletin should contain the following information:

- (1) Class Title;
- (2) Summary of duties of the class;

- (3) Minimum qualifications;
  - (4) Salary and other forms of compensation;
  - (5) Last date for filing an application and place to file application;
  - (6) Location of employment, the expected number of vacancies, and other conditions of employment;
  - (7) The subjects about which competitors will be examined and the weights of the various parts of the examination;
  - (8) Such other information that will assist in an understanding of the nature of the employment and the procedures necessary to participate in the examination.
- B. Distribution of all recruitment bulletins, including transfers and other employment opportunities, shall be distributed in accordance with Rule 1.20.7.

4.20.7 Who May Compete

- A. Competitive examinations for positions in the classified service shall be open to all applicants who meet the minimum qualifications and who are not rejected as provided in Rule 3.10.5 and/or 4.10.2, provided that examinations may be restricted to promotional candidates at the discretion of the Commission.
- B. Applicants enrolled in their last semester or quarter of school and who will thereafter possess the minimum qualifications will be allowed to compete in the examination, but will not be certified until successful completion of the semester or quarter.

4.20.8 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 such authorization or other satisfactory evidence of having filed an acceptable application.

4.20.9 Character of Examinations

- A. Examinations shall provide equal opportunity for all qualified candidates to demonstrate their fitness in relationship to the skills, knowledge, and abilities required for the class.

- B. Examinations may be a combination of an application screening, a written, oral, or performance test in the form of a practical demonstration of skill and ability.
- C. A test to determine proficiency in basic reading, writing, and mathematics shall be administered to all candidates for positions in a class where student instruction is a primary job responsibility.

4.20.10 Examinations Procedures (Ed. Code 45317)

- A. Candidates in any written test must take the test on the prescribed date unless religious affiliation or military service (promotional candidates) requires other arrangements.
- B. Copies of the questions in a test shall not be made by candidates 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 candidate until all papers of all candidates in a given examination shall have been marked and rated.
- D. A candidate may be disqualified for the following:
  - (1) Placing an identifying mark upon any test materials (other than the identifying number prescribed at the time of the examination) or making any attempt to disclose to others the identity of his/her papers prior to rating of all candidates.
  - (2) Attempting to influence any employee with access to test materials to provide the candidate an advantage.

4.20.11 Examination Weighting

Applicants may be required to attain a designated minimum score/rating in each part or combined parts of the examination to qualify for participation in the next succeeding portion. The relative weights of the different parts of the examination are 40% for the written, 60% for the oral, and where applicable pursuant to Section 4.20.9C, a pass-fail for the proficiency test. Proficiency must be equal to or exceed the level required by the El Dorado Union High School District of high school seniors in order to graduate.

4.20.12 Review of Written Test (Ed. Code 45274)

- A. When the written tests of all candidates have been scored and rated, each candidate will be notified of his/her score and rating and that they may review their test paper within five working days. At the review they will be provided a protest sheet upon

which they may protest any question or answer and indicate the basis therefore. No notes may be made of test materials nor may copies of such materials be removed.

- B. Any protest sheets shall be immediately filed with the Personnel Director. The Personnel Director shall review and act upon all protests. More than one answer to a question may be allowed or a question may be disqualified if the protest is found to be valid. If the protest results in any change, the tests of all candidates will be reviewed and re-rated accordingly.
- C. The Personnel Director shall inform the protestant of the findings. If the findings are against the protest, the candidate may appeal to the Personnel Commission. An appeal shall not delay other parts of the examination process.

4.20.13 Interview Examination (Ed. Code 45273)

- A. If an examination includes an oral interview or Qualifications Appraisal Interview (QAI), those candidates eligible for the interview will be examined at the earliest practicable date after conclusion and scoring of the earlier test(s).
- B. The interview panel will consist of at least two raters whose backgrounds reflect as many facets of the class being tested as possible. Employees of the El Dorado County Office of Education may serve on interview examination panels if not at the first or second level of supervision over a vacant position in the class for which the examination is held. Members of the County Board of Education or the Personnel Commission shall not serve on interview examination panels.
- C. For appropriate reasons, candidates may have their requests granted that certain panel members be removed for lack of objectivity.
- D. The proceedings of all interview examinations shall be electronically recorded. In no case will an interview examination panel be provided with confidential references on employees of the Office of Education who are competing in promotional examinations. Scores achieved by the candidate on other parts of the examination shall not be made available to the interview examination panel.
- E. Candidates may appeal an interview examination rating to the Personnel Director within five working days of the mailing of the notification of scores. Such protests will be accepted only if they deal with an impropriety in the administration of the test or there is evidence of discrimination. Substantiating evidence must be submitted with the appeal. An appeal based solely on a candidate's disagreement with a rater's judgment shall be rejected.

If the appeal is rejected by the Personnel Director, candidates may appeal to the Personnel Commission within five working days of the mailing of the notification of rejection. The Personnel Commission may alter the interview examination score if it finds justification for the appeal and order the candidate's rating adjusted accordingly.

No change in an eligibility list shall invalidate any appointment made prior to the ordered adjustment unless fraudulently made. In promotional examinations, the protest period shall be held prior to regular appointment from the eligibility list.

4.20.14 Retention and Confidentiality of Examination Records (Ed. Code 45274)

All examination data (including recordings and rating sheets) will be retained by the Commission for at least 90 days after establishment of an eligibility list. All examination records are confidential and available only to persons directly connected with the examination. All applications and examination papers are confidential records of the Personnel Commission and shall not be returned to the applicant.

The names of the applicants or unsuccessful candidates in any examination or any part thereof shall not be made public.

4.20.15 Seniority Credit - Promotional Examinations

In promotional examinations only, seniority credit shall be added to the final passing scores of candidates in the amount of one point for each year of service, not to exceed a total of five points. Credit shall be granted for time spent in regular status (see definition) in the classified service or on leave from the classified service while otherwise employed in the 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 year.

4.20.16 Determining Final Examination Scores (Ed. Code 45272)

Final scores of candidates shall be rounded to the nearest whole percent. All candidates with the same percentage score will be considered as having the same rank.

4.20.17 Veterans Preference (Ed. Codes 44800, 45294, 45295, and 45296, Military and Veterans' Code 821, 38 US Code 101)

- A. Veterans with 30 days or more of service between the dates listed below shall be allowed additional credit when they attain the passing mark established for an open examination. Active service in the Army, Navy, Marines, Air Force, Merchant Marine or as a nurse with the Red Cross between the following dates is required:



World War I	April 6, 1917 to November 11, 1918
World War II	December 7, 1941 to December 31, 1946

Service in the Coast Guard between December 7, 1941 and January 1, 1946 is also credited.

Korea	June 27, 1950 to January 31, 1955
Viet Nam	August 4, 1964 to March 1973
Persian Gulf	August 2, 1990 to a date to be set by Law or Presidential Proclamation.

- 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. Veterans who become eligible for appointment by attaining the passing mark established for the examination shall be allowed an additional five points and disabled veterans shall receive ten points.
- C. In order to obtain credit, an applicant must furnish satisfactory proof of qualifying military service at the time the application form is filed.

4.20.18 Notice of Final Score

Each candidate shall be notified of his/her score for each portion of the examination, additional veteran's or seniority credits, the total thereof, and his/her rank on the eligibility list, if qualified.

**CHAPTER 5  
EMPLOYMENT LISTS**

**5.10 ELIGIBILITY LISTS**

5.10.1 Establishment and Life of Eligibility Lists (Ed. Code 45272)

- A. Following an examination, the names of successful candidates 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.
- B. Upon approval of the Commission, open competitive eligibility lists may be established for a period of six months or one year, so long as the six months duration is noted in the recruitment bulletin announcing the examination.
- C. All lists may be extended for an additional period of one year or less at the discretion of the Commission.

5.10.2 Types of Eligibility Lists

- A. Reemployment List: There shall be established for each class, as necessary, a reemployment list which shall take precedence over all other employment lists in appointment. This list shall contain the names of all regular classified service employees who have been laid off or demoted from any position because of lack of work, lack of funds or exhaustion of benefits. 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. Each person on the list shall be eligible for reemployment for a period of thirty-nine months from date of layoff.
- B. Promotional List: A list of eligibles resulting from an examination limited to qualified regular employees only.
- C. Promotional and Open Competitive List: Separate promotional and open competitive lists of eligibles resulting from a single examination with the promotional list taking precedence.
- D. Merged Promotional and Open Competitive or Dual List: One list of eligibles resulting from a single examination.
- E. Open Competitive List: A list of eligibles resulting from an examination open to all qualified candidates.

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

5.10.3 Termination of Eligibility Lists

- A. Eligibility lists are automatically terminated on dates initially designated by the Commission unless subsequently 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 eligibles remain on the list.
- D. An eligibility list may be terminated by the Commission, at the request of the Personnel Director, when no eligible is available for appointment to a specific permanent position in a class when there are fewer than three ranks remaining on the list.
- E. An eligibility list is automatically terminated when in the second year of its existence; a new list for the class is established.

5.10.4 Consolidation of Eligibility Lists (Ed. Code 45291)

- A. If a new examination for a class is given during the first period of the life of an existing list (6 months or one year), the examination shall be sufficiently similar to the previous examination to ensure the comparability of the scores of eligibles. The new list shall then be merged with the existing list with eligibles ranked in the order of examination score, plus additional points where applicable. Promotional lists shall be merged only with promotional lists, except that, where "dual certification" applies, open and promotional lists shall be merged for certification.
- B. When lists are consolidated under this rule, the earlier list shall be terminated at the end of its initial life, and those eligibles' names shall be removed from the consolidated list.

5.10.5 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 appointment.

5.10.6

Removal of Names from Eligibility Lists and Notice Thereof

- A. The name of an eligible may be removed from an eligibility list by the Personnel Director, for any of the following reasons:
1. A written request by the eligible for removal.
  2. Failure to respond, within three business days after date of mailing, to an inquiry regarding availability for employment.
  3. Any of the causes listed in Rule 4.10.3.
  4. Termination of employment
  5. Failure to respond for an interview after certification.
  6. Three waivers of certification during the life of the eligibility list, except that waivers relating to part-time or limited-term appointments shall not be counted for the purpose of this rule.
  7. Refusing an employment offer after having been properly certified as eligible for appointment.
  8. When an eligible has been certified three times and has been interviewed three times for the same position by representatives of the appointing authority without being selected for the position being filled.
- B. Eligibles removed in accordance with Rule 5.10.6 shall be notified in writing by the Personnel Director. The notification shall state:
1. The reason(s) for the removal.
  2. That within seven calendar days the individual may appeal to the Personnel Director for review, and that failure to appeal for review makes the removal final and conclusive.
  3. If there has been a review, and the removal is sustained, the individual shall be notified in writing of the reason(s) for sustaining the removal and that he/she may make a written appeal of the removal within seven calendar days to the Personnel Commission. An appeal must contain specific reasons thereof. The decision of the Commission shall be final.

## 5.20 CERTIFICATION FROM EMPLOYMENT LISTS (Ed. Code 45277)

### 5.20.1 Order of Precedence

Names shall be certified for appointment from employment lists in the following sequence:

- A. Reemployment list pursuant to rule 5.10.2: If a reemployment list exists containing more than one name 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 all other lists.
- B. Names of eligibles in the top three ranks of a promotional eligibility list who are ready and willing to accept the position. Equal consideration shall be given to other sources such as transfers and reinstatement lists.
- C. Names of eligibles in the top three ranks of an open eligibility list who are ready and willing to accept the position.

### 5.20.2 Dual Certification (Ed. Codes 45280, 45282, and 45284)

When the same examination is held on an open competitive and promotional basis to provide a list of eligibles for any class having fewer than three permanent positions, or for which the most recent promotional eligibility list failed to provide sufficient available eligibles to fill all the vacancies occurring in permanent positions during the first period of life of the eligibility list, the Commission may, prior to the examination, authorize dual certification from the resultant eligibility lists.

The names certified shall be those of eligibles in the combined top three ranks of the open and promotional eligibility lists. Veteran's credit shall be excluded, but seniority credit shall be included for promotional eligibles.

When all promotional eligibles have been removed from the list, through appointment or otherwise, veteran's credit shall be added to scores of remaining open eligibles and their ranks shall be adjusted accordingly. (See also Rule 4.22)

### 5.20.3 Procedure When Fewer than Three Ranks Remain

When fewer than three ranks 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.

5.20.4 Other Sources of Eligibility

In the absence of a reemployment list for a class, a vacancy may be filled by transfer, demotion, reinstatement or reemployment (after resignation), restoration to former class after voluntary demotion, or other means provided in the rules, without regard for existence of eligibility lists.

5.20.5 Waivers of Certification

- A. An eligible may, without penalty, make himself unavailable for certification to specific locations or shifts and to part-time or full-time positions and to limited-term or permanent positions by filing a prescribed form in the personnel office.
- B. Certification of eligibles who have made themselves unavailable shall not be made, provided that eligibles may revise or withdraw their unavailability in writing.
- C. An available eligible may waive certification twice without penalty. At the time a third waiver is to be signed by an eligible, he/she will be informed that, upon signing the third waiver, his/her name will be removed from the eligibility list per Rule 5.10.6.
- D. At the time an eligibility list is established, each eligible shall be sent a copy of Rule 5.10.6 and Rule 5.20.5.

5.20.6 Procedure of Certification and Appointment from Eligibility Lists

- A. When a position is to be filled, the appointing authority shall notify the Personnel Director of that fact and of the date of the anticipated need. The request for certification shall state the class title, hours and location of employment, and other pertinent information as required by the Director.
- B. The Personnel Director shall ascertain the availability of eligibles and shall certify the names in the top three ranks to the appointing authority in accordance with these rules.
- C. The appointing authority shall make its selection from the persons certified and shall notify the Director, who shall see that the necessary employment procedures are carried out.
- D. If a candidate who has been certified as eligible for appointment to a position fails to keep his/her interview appointment or, at the interview declines the position, the appointing authority may fill the vacancy from the remaining certified eligibles or may request additional certification in accordance with Rule 5.20.7.

Certification of Additional Eligibles

- A. If, after certification of eligibles, the appointing authority desires certification of additional eligibles per Rule 5.20.6D, a written request shall be submitted to the Personnel 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 Personnel Director, when the request is received, shall immediately investigate the matter to determine if the request is validly made and, specifically, to determine that an appointment refusal was voluntary on the part of the concerned eligible. He/she shall:
1. If he/she finds the request to be valid:
    - a. Certify additional eligibles as may be required;
    - b. Remove from the eligibility list, at his discretion, the names of eligibles who failed to report for interview or who refused appointment, and notify the eligibles pursuant to Rule 5.10.6.
    - c. Notify the Commission of the action he/she has taken.
  2. If he/she finds that a refusal of appointment was not voluntary and free of any type of duress, he/she shall:
    - a. Notify the appointing authority of his findings and refuse to certify additional eligibles, citing the provisions of this Rule.
    - b. Refer the matter to the Personnel Commission together with his/her findings and recommendations which may include suggested action under Education Code Section 45317.
    - c. Advise the appointing authority of the date of his/her report to the Commission in order to enable appropriate representation.

5.20.8 Certification from Eligibility List for another Class

If there is no eligibility list for the class in which the vacancy occurs, certification may be made from a list for another class at the same or 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 Director and Personnel Commission will assess that the use of this practice is in the best interest of the Office of Education and that the necessary skills and knowledge were adequately tested in the examination.

5.20.9 Withholding Names from Certification

- A. The name of an eligible may be withheld from certification when:
1. He/she expresses unwillingness or inability to accept appointment.
  2. He/she fails to respond within three business days next following the mailing of written inquiry regarding availability for permanent employment or request to appear for interview regarding such employment.
  3. He/she cannot be reached in time for appointment when immediate temporary employment is required. (This provision shall apply only to such immediate temporary employment.)
  4. There is reasonable doubt about an eligible's criminal record, the truthfulness of application information, and/or mental and physical condition as such would affect the ability to perform the duties of the position.
  5. An eligible has the same appeal rights as provided by Rule 4.10.4. Any appointments made pending the outcome of an appeal shall not be disturbed unless fraudulently made.

5.20.10 Restoration to Certification

- A. When the name of a person has been withheld from an eligibility list or from certification or has been removed from the list, it may be placed on such list or restored thereto by the Personnel Director, subject to ratification by the Personnel Commission at its next meeting, under the following circumstances:



1. When the withholding or removal was because of the waiver or inability of the eligible to accept employment, or failure to respond to inquiry as to his/her availability, to appear for interview, or to present himself/herself for duty, and the applicant presents a good and valid reason and certifies to the Personnel Commission that he/she is now willing and able to accept appointment.
  2. When the withholding or removal was for a reason stated in Rule 4.10.3 and such action was improper or the defect has since been corrected.
- B. Revisions and withdrawals of voluntary waivers shall not require approval by the Commission.

5.20.11 Duties of Eligible

- A. It shall be the duty of every eligible to respond promptly after receiving the notice of certification. When the eligible resides in El Dorado County, he/she shall respond within three days after the date the notice is mailed. If the eligible resides outside El Dorado County, he/she shall respond within three days plus the normal time required for the communication to be transmitted by mail to the eligible's place of residence and for his answer to be returned by mail.
1. Failure of an eligible to respond within the above-stated times will be deemed an automatic waiver of certification, and the Personnel Director may certify an additional name in lieu of the name of such eligible.
- B. An eligible who has been certified shall be allowed two weeks (one month in the case of administrative and executive classes) to report for duty after an offer of appointment to a permanent position has been made. If he/she is unable or unwilling to report by the end of two weeks (one month in the case of administrative and executive classes), he/she may be considered to have refused appointment; and the appointing authority 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 Personnel Director of his/her selection.
  2. Notification may be made by telephone, telegram, or registered or certified mail.
  3. The appointing authority may allow a period longer than two weeks at its direction.

4. When appointment is to a limited-term position, the eligible must be available on the date specified by the appointing authority.
- C. Every person who has been placed on any eligibility list or reemployment list shall promptly and in writing file with the Personnel Director his/her correct mailing address and place of residence. This address shall be the place to which the Commission and the Personnel Director shall direct all notices necessary in carrying out the provisions of the Act and these rules. Whenever such person shall have any change in mailing address or place of residence, he/she shall promptly notify the Personnel Director, stating the list or lists upon which his/her name appears, together with his new mailing address and place of residence. Failure or neglect on the part of any such person to file such information may, at the discretion of the Commission, operate as a waiver of his/her order of certification and/or appointment from any such list or lists.

5.20.12 Subjects Regarding Which No Questions Shall Be Asked

No questions relating to political or religious opinions or affiliations, race, color, national origin or ancestry, sex, or marital status age and/or physical handicap unrelated to the position or the job requirements shall be asked of any applicant or any eligible whose name has been certified for appointment, nor shall any discrimination be exercised therefore. (See Rule 4.20.3)

5.20.13 Certification of Eligibles for Position with Language Requirements

- A. When the ability to speak, read and/or write a language in addition to English is a requirement, the appointing authority shall so indicate to the Personnel Director when calling for certification of eligibles to fill the vacancy.
- B. In such an instance, the "Rule of 3 Ranks" is suspended. The Personnel Director shall determine which eligibles possess the required language skill and shall certify the names of three qualified eligibles, in the order of their relative standing on the list, who are ready and willing to accept the position.
- C. If there are less than three ranks of eligibles on the list who meet the language requirement, the available eligibles shall be certified; however, the appointing authority may choose not to appoint any of them and may request a new examination.

5.20.14 Reduction in Eligibility

A reduction in eligibility from a higher class to a lower class may be granted only when the two classes are in the same line of promotion. 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 Rule 5.20.8.

**5.30 PROVISIONAL APPOINTMENTS**

5.30.1 Conditions Under Which a Provisional Appointment May Be Made (Ed. Codes 45287, 45286, 45288, and 45289)

- A. The appointing authority may make a provisional appointment when the Personnel Director certifies that:
  - 1. No eligibility list exists for the class, or
  - 2. An eligibility list exists, but there is an insufficient number of available eligibles (i.e., less than 3 ranks) and the appointing authority refuses to appoint an available eligible.
- B. An employee 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 he/she shall be ineligible to serve in any full-time provisional capacity.
- C. No person shall be employed in provisional capacities under the County Board of Education 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 Ed Code Section 13712, 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.
- D. 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.
- E. Notwithstanding Rules A and B, above, the Commission may extend the 90-working-day provisional appointment for a period not to exceed 36 additional working days provided:

1. An examination for the class was completed during the initial 90 work days of the employee's provisional assignment.
2. Satisfactory evidence is presented indicating:
  - a. Adequate recruitment effort has been and is being made.
  - b. Extension of this provisional assignment is necessary to carry on vital functions of the Office of Education.
  - c. 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.

5.30.2 Terminating Provisional Appointments

- A. 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 5.30.1.E.
- B. A provisional appointment may be terminated at any time at the discretion of the appointing authority.

5.30.3 Emergency Appointments

- 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 Superintendent, through authorized Department Heads, may make emergency appointments, without reference to eligibility lists, for a period not to exceed 15 working days.
- B. When such emergency appointments are made, it shall be the duty of the Superintendent or authorized Department Heads to notify the Personnel Director in writing, naming the appointee or appointees, date of appointment, and nature of duties performed, and giving 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.

**CHAPTER 6**  
**IN-SERVICE STATUS AND TRANSACTIONS**

**6.10 EMPLOYMENT (Ed. Code 45169)**

Upon initial employment and upon each change in classification thereafter, each classified employee shall be furnished a copy of his/her class specification, salary data, assignment or work location, together with duty hours and the prescribed work week. The salary data shall include the pay periods, daily, hourly, over-time and differential rate of compensation, whichever are applicable.

**6.10.1 Duration of Probation (Ed. Codes 45301 and 45305)**

- A. A new employee appointed from an eligibility list shall serve a probationary period of six months, but not less than 130 days of paid service in one class before attaining permanency in the classified service. Credit toward completion of probation shall be granted only for service in regular positions in the class after appointment from the eligibility list.
- B. An employee who has been promoted shall serve a probationary period of six months in the higher class before attaining permanency in that class. Credit toward completion of probation shall be granted only for service in regular positions in the class after appointment from the eligibility list.
- C. For those classes designated by the Commission as administrative or management, the probationary period shall be one year.
- D. If an employee is granted a leave of absence during their probationary period that time will not be credited toward completion of the probationary period.
- E. A probationary employee assigned on a part-time, regular basis will complete his/her probationary service in accordance with sections A., B., C., and/or D. above.

**6.10.2 Rights of Probationary Employees**

- A. An employee who resigns in good standing during his/her initial probationary period shall, upon request, have his/her name restored in proper rank to the eligibility list. Such action shall not extend the life of the eligibility list or the period of eligibility of the employee.
- B. An employee who is suspended or dismissed during his/her initial probationary period shall be issued a written notice of suspension or dismissal by the Superintendent or any person authorized by the Superintendent.

- C. An employee who is suspended or dismissed during his/her initial probationary period shall not have the right to appeal.
- D. An employee who has permanent status in the classified service and who has been promoted to a higher class, may be demoted involuntarily during the probationary period in the higher class to his/her former class. He/she shall be notified in writing of the charges and action against him/her, and shall have the right to appeal.
- E. A permanent employee who is suspended or dismissed or demoted to other than his/her former class during a probationary period in a higher class retains full rights of appeal.
- F. Should the work for which a probationary employee has been appointed prove temporary instead of permanent as certified, and should he/she be laid off without fault or delinquency on his/her part, his/her name shall be restored to the eligibility list and the time served shall be credited to the probationary period.

**6.20 CHANGES IN POSITION AND CLASS**

**6.20.1 Transfer (Ed. Code 45261)**

- A. An employee may be transferred at his request or for the good of the service from one position to another in the same class at the discretion of the department head(s) involved, provided that such action shall not be taken for punitive or preferential reasons.
- B. A permanent employee may be transferred to a position in a related class at the same salary schedule. Such transfers shall be made only with the approval of the Commission.
- C. Transfers shall not change the employee's salary rate, anniversary date, accumulated illness leave, and accumulated vacation credit, or in any other manner reflect adversely upon his rights, as provided in law and these rules.
- D. 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 contemplates.
- E. Reasons for any transfer which is not voluntary shall be discussed with the employee by his/her immediate supervisor.

6.20.2

Demotions

(Ed. Code 45289)

- A. A permanent employee may request voluntary demotion to a class with a lower maximum salary rate. Such requests require the approval of his/her department head and that of the head of the department to which he/she is to be assigned.
- B. Voluntary demotion is a privilege available to a probationary employee only in cases when he/she 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.

6.20.3

Restorations

- A. A former permanent employee who resigned in good standing may be reinstated in a vacant position in his/her former class and status within 39 months of the last date of paid service. Also, he/she may be reinstated in a vacant position in a lower related class, if qualified, or in limited-term status in the same or lower class. Such actions are discretionary with the appointing authority.
- B. An employee who has taken a voluntary demotion may be restored to a vacant position in his/her former class or in a vacant position in a related lower class, as determined by the Commission, within 39 months. Except when demotion was chosen in lieu of layoff, restoration is discretionary with the appointing authority.
- C. An employee who has accepted demotion in lieu of layoff for lack of work, lack of funds, or abolishment or reclassification of his/her position, has the right to be reemployed, in accordance with his/her seniority, in a vacant position in his/her former class within 39 months after demotion. Intervening reassignments to other classes shall not abrogate that right. If he/she has not been reemployed in his/her former class within 39 months, he/she shall be eligible for appointment to a vacant position in that class, without examination, for an additional 24 months at the discretion of the appointing authority.
- D. 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, or, if restored in a lower class, to the rate closest to that of the step to which he/she would be assigned if he/she were restored in his/her former class.

2. If restored to permanent status, restoration of accumulated sick leave and seniority as of the date of the separation.
3. Restoration to an anniversary date which, combined with former service, provides the usual period for step advancement.
4. Restoration of all rights, benefits and burdens of a permanent employee in the class to which restored.

6.20.4 Changes in Assigned Time (Ed. Codes 45136 and 45137)

A. General Rule

1. If an employee is required to work in excess of the normally assigned time for an average of 30 minutes or longer per day for 20 consecutive work days, the assigned time of the position will be changed to reflect the longer hours. NOTE: Time spent on special or temporary projects is excluded from this rule. Special projects are defined as work projects requiring 30 work days or less to complete.
2. Employees whose hours-worked-status changes may have their benefit status changed at the first of the month immediately following the month in which the hours-worked-status change becomes effective.
3. When a class contains permanent positions of varying hours of work per day, week, or month, preference in assignment to vacant positions shall be based on seniority in the class.
4. A seniority-bid list or lists shall be maintained for the purpose of this rule. Employees on the seniority-bid list shall accept or reject a "vacant" position, as defined by this rule, on the basis of placement on the list. Employees who are eligible to accept a "vacant" position but reject same shall not be permitted to withdraw the rejection once a proper assignment has been made.
5. A permanent employee displaced by virtue of this rule shall be entitled to bumping rights in accordance with proper seniority.



B. Increases in Time in Excess of One (1) Hour Per Day

1. When an existing permanent position is assigned a permanent increase in time of more than 1 hour per day, the increased position shall be considered "vacant" for the purpose of this rule effective as of July 1 next following the date of the increase unless such increase has been effected in the first quarter of the school year in which case it shall be considered vacant as of October 1st of that school year.
2. Eligibility and acceptance of "vacant" positions shall be made in accordance with Subsection A.3 of this rule.

C. Increases in Time of One (1) Hour or Less Per Day

1. When an existing permanent position is assigned an increase of 1 hour or less per day, the employee in the same class working less hours than the position with increased time and with the most seniority where the adjustment is being made shall be entitled to the increase.
2. If the employee with the most seniority where the adjustment is being made wishes to remain at the same hours per day worked and wishes no increase in time, the adjustment will then be offered to the next employee in line with seniority.

D. Decreases in Assigned Time

1. If the regular hours of employment of a position or positions are to be reduced, the administration shall:
  - a. Determine the class (es) and location(s) affected by the reduction;
  - b. Notify the Personnel Director at least one month in advance of the effective date of the reduction;
  - c. Work with the Personnel Director to alleviate the effect of reduction on employees.

When a permanent position is to be reduced in assigned time per day, week, month, or year, the incumbent shall have the right to transfer into any vacant position in the class which is not greater in assigned time than his/her former position.

Bumping: If a vacant, permanent position of equal time is not available, the incumbent may bump the incumbent of a position with equal time who has the least seniority. If no such option is available, he/she may bump the employee with the least seniority among those occupying positions of less time than the original position and greater time than the reduced position, provided that he/she has greater seniority. An employee so bumped shall have similar bumping rights.

When an employee is faced with a reduction in assigned time, the rules on transfer and demotion shall be given a liberal interpretation in order to relieve the effect of such reduction.

Reduction in assigned time shall not be applied for punitive or preferential reasons. Nothing in this rule shall preclude an employee from volunteering for a reduction in assigned time or from waiving preferential rights to increases in assigned time.

## **6.30 LIMITED-TERM EMPLOYMENT (Ed. Code 45286)**

### **6.30.1 Types of Limited-Term Appointments**

- A. A substitute assignment may be made not to exceed in duration 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.
- B. The appointing authority may establish positions the duration of which is six months or less; such positions shall be designated "limited-term". Such positions are subject to classification by the Personnel Commission, except that the Personnel Director may classify them subject to later ratification if the good of the service demands expeditious action.

### **6.30.2 Eligibility for Limited-Term Employment**

- A. Limited-term appointments shall be made in accordance with procedures for regular appointments, except as provided below.
- B. If an eligible has been appointed from an eligibility list to a substitute assignment or limited-term position, he/she shall continue to be eligible for substitute assignments or limited-term appointments in the same or related lower class after the eligibility list has expired. The same privilege of continued eligibility shall apply to a former employee who resigned in good standing and who accepted a substitute assignment or limited-term 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 limited-term appointments and shall be certified there from before the current eligibility list is used. Names may be removed from this list for any of the causes listed in Rule 4.10.3 subject to appeal to the Personnel Commission.

- C. Provisional appointments may be made to limited-term positions and substitute assignments subject to the provisions of Rule 50.30.

6.30.3 Compensation (Rev. C. through E. 5/10) (Rev. "A" 4/18)

- A. When a regular employee is given a limited-term appointment in a second class which is at or above his/her current rate of compensation in lieu of all or part of his/her regular appointment, he/she shall receive temporary upgrade pay in that second class which shall be the rate appropriate to that class which is next above his/her regular rate, but not more than the highest rate applicable to that class.
- B. When a regular employee is given a limited-term appointment in a second class which is below his/her current rate of compensation in lieu of all or part of his/her regular appointment, his/her rate of pay in that second class shall be the rate equal to the first class.
- C. When a regular employee is given limited-term appointment, in addition to his/her regular appointment, in a second class which is below his/her current rate of compensation, his/her rate of pay in that second class shall be the rate equal to the first class.
- D. When a regular employee is given a limited-term appointment, in addition to his/her regular appointment, in a second class which is above his/her current rate of compensation, his/her rate of pay in that second class shall be the rate appropriate to that class which is next above his/her regular rate, but not more than the highest rate applicable to that class.
- E. Former regular employees who are reinstated as limited-term employees within 39 months after resignation shall be paid in accordance with Rule 6.20.3. The salary step so determined shall be applicable to all future limited-term appointments of that employee in that class until he/she loses eligibility for such appointments.

6.30.4 Rights and Benefits

- 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 other limited-term employees shall be granted only those benefits provided by law, such as paid holidays and bereavement leave. Vacation and/or sick leave and/or insurance benefits may, at the discretion of management, be granted at the same schedule provided in the negotiated agreement. 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.

6.30.5 Terminations

- A. Non-Permanent limited-term appointments and substitute employees can be dismissed at the end of an assigned shift without right of appeal.
- B. Permanent limited-term employees may be dismissed for cause, which cause shall be made known to them and to the Personnel Director in writing. The Personnel Director may remove the employee's name from the special list for limited-term appointments if his/her investigation supports such action.

**6.40 ASSIGNMENTS OF DISABLED EMPLOYEES (Ed. Code 45279)**

6.40.1 General Policy

When a regular employee becomes unable to perform any or all of the duties assigned to his/her classification because of illness or injury as determined by medical authority designated by the Commission, effort shall be made to place him/her in a position the duties of which are within his/her capabilities. Accommodation, if any, and the duration of the accommodation shall be at the discretion of the appointing authority, with the approval of the Commission in the cases noted below.

6.40.2 Accommodation

- A. A disabled employee's duties in his/her regular position may be altered in accordance with the disability. Such changes in duties shall be reported to the Personnel Director who shall determine whether the position requires a classification study.
- B. An employee with a disability may accept demotion or transfer to a less demanding class, with the approval of the Commission.
- C. An employee with a disability 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 he/she can be appointed to the higher class in accordance with the rules and procedures on eligibility and appointments.

6.40.3 Effect of Refusal by Employee

An employee with a disability may refuse assignments to other classes without effect on his 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.

6.50 **REMOVED** (Personnel Commission Meeting of 12/12/12)

6.60 **PERFORMANCE EVALUATIONS (Ed. Code 45261)**

6.60.1 When Evaluations Are To Be Made

The performance of all regular classified employees shall be evaluated by their immediate supervisors in accordance with the following schedule:

- A. Probationary employees--at the end of the second and fifth months of service. In administrative and executive classes at the end of the fourth, eighth, and tenth months of service.
- B. Permanent employees--once each year, usually between the months of February and May, and at any time more than 60 working days later if the employee leaves the control of that supervisor.

6.60.2 Who Makes Evaluations

Each immediate supervisor under whom the employee has served for 60 working days or more during any rating period shall provide a performance evaluation, even though the employee may have left his/her control.

6.60.3 Evaluation Procedures

- A. Performance evaluations shall be made on forms provided by the employer and shall be prepared by the employee's immediate supervisor. The form shall be reviewed by the next higher supervisor.
- B. The immediate supervisor shall present the performance evaluation report to the employee and shall discuss it with his/her then. The evaluation form shall be signed by the employee to indicate receipt, and he/she shall be given a signed copy.
- C. Performance evaluation reports shall be filed in the employee's personnel records. All performance evaluations shall be confidential.

6.60.4 Special Evaluations

The performance of any classified employee may be evaluated by the immediate supervisor at any time when deemed to be in the interest of the program. A supervisor may, with the approval of his/her department head, issue to an employee a Notice of Commendation or a Notice of Unsatisfactory Service. Such notices shall be made on prescribed forms and shall set forth specific reasons for recognition of outstanding or unsatisfactory service by the employee. Such notices shall be delivered to the employee personally by his/her immediate supervisor whenever practicable. A copy of such notice shall be placed in the employee's personnel file and shall be available for review in connection with promotional examinations.

6.60.5 Appeals

If the employee is not satisfied with his/her performance evaluation, he/she may appeal through the grievance procedure described in Chapter 8 of these rules or the negotiated contract.

**6.70 LEAVES OF ABSENCE**

6.70.1 Vacation (Ed. Code 45197) (Revised 3/84 and 11/3/99)

A. Classified employees in positions designated as Management, Confidential and Supervisory, (Salary Schedule E/19), regularly employed 35 to 40 hours per week, shall earn vacation at the following rates:

Years of Service	Hired Before <u>1/1/84</u>	Hired Between <u>12/31/83 and 1/1/92</u>	Effective <u>1/1/92</u>
Through 2	20 days	15 days	15 days
3 - 5	20 days	18 days	20 days
6 - 10	20 days	20 days	22 days
11 - 20	22 days	22 days	After 10 Years: 25 days

Schedule E employees regularly working less than 35 hours per week shall earn vacation proportionately at the same rates.

B. Other classified employees shall earn vacation at the rates specified in the Article 18 of the Agreement between the El Dorado County Superintendent of Schools and Chapter 488 of the California School Employees' Association.

C. Vacation may be accumulated to a total of 20 days (160 hours) as of December 31. Vacation earned following such accumulation must be taken by the next December 31st, or be lost. The Superintendent or authorized representative, may, under special circumstances, allow an additional accumulation.

- D. Vacation may, with the approval of the Superintendent and/or the employee's Unit Supervisor, be taken at any time during the year. If an employee is not permitted to take his/her full annual vacation, the amount not taken shall accumulate for use in the next year or may be paid for in cash, if approved by the Superintendent.
- E. Earned vacation shall not become a vested right until completion of the initial six months of employment.
- F. The employee may be granted vacation during the year even though not earned at the time the vacation is taken. If an employee is terminated and had been granted vacation which was not yet earned at the time of termination of his services, the Office of Education shall deduct from the employee's severance check the full amount of salary which was paid for such unearned days of vacation taken.
- G. Upon separation from service, the employee shall be entitled to lump-sum compensation for all earned but unused vacation.
- H. Every 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 workload of the department. Vacation may be taken in units of not less than one (1) hour.
- I. The rate at which vacation is paid shall be the employee's current rate. An employee whose vacation is earned and begun under a given status shall suffer no loss of earned vacation credit by reason of subsequent changes in conditions of employment during that vacation.
- J. The Superintendent may allow classified employees to interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, provided the employee supplies adequate notice and information regarding the basis for such interruption or termination.

6.70.2

Sick Leave (Ed. Code 45191)

- A. Regular classified employees shall be entitled to one (1) day of paid sick leave for illness or injury for each full month of employment. This one (1) day shall be prorated accordingly for regular employees working partial months.
- B. Unused sick leave shall be accumulative from year to year.
- C. Sick leave may be taken at any time, provided new employees on probationary status may use only six days of paid sick leave during their initial probationary periods. Any advance sick leave granted must be subsequently earned by the employee. In the event the employee leaves the service and has used more sick

leave than earned, the unearned portion shall be deducted from his/her severance check.

- D. Pay for any day of sick leave shall be the same pay the employee would have received if he/she had worked that day, except as provided by Education Code Section 45137 for part-time employees.
- E. Employees absent through illness or injury must notify their immediate supervisor as early as possible. Upon return to work, the employee must complete the appropriate form indicating the date(s) of sick leave taken.
- F. At least one day prior to his/her expected return to work, the employee shall notify his/her supervisor in order that any substitute employee may be terminated. If the employee fails to notify his/her supervisor and both the employee and the substitute report, the substitute is entitled to the assignment, and the employee shall not receive pay for that day.
- G. Normally the County Office of Education may require a physician's or practitioner's verification of illness or injury only if an employee has been on sick leave for five (5) or more consecutive days. In cases of suspected abuse of sick leave, however, satisfactory proof of illness or injury may be required at any time, as long as such requirement of proof is not used to harass an employee.
- H. After exhaustion of paid sick leave, upon request, an employee who is ill or injured may use accumulated vacation and compensatory time to avoid leave without pay.
- I. After exhaustion of all paid leave, upon request, a permanent employee may be placed on unpaid leave and, with the approval of the Superintendent, the unpaid leave may be extended for any period not to exceed 18 months.
- J. At the conclusion of all sick leave and additional leave, paid or unpaid, if an employee is unable to assume the duties of his/her position, he/she will be placed on a reemployment list for a period of 39 months in the same manner as if he/she were laid off for lack of work or lack of funds.
- K. Up to three (3) days of sick leave may be used by a male to care for his spouse during childbirth.
- L. Up to two (2) days of sick leave may be used by employees for completing legal requirements for adopting a child.



6.70.3 Differential Sick Leave (Ed. Code. 45196)(Rev. "A" 7/09)(Rev. "B" 5/10)(Rev. "A" and "B" 12/17)

- A. When all paid leaves have been exhausted and an employee is absent because of illness or injury, the employee shall be paid the difference between his/her salary and the salary of a substitute for the period not to exceed five (5) months. The five (5) month period shall commence on the first (1st) day of the absence and run concurrently with all other leaves. If an employee is absent due to illness and has fewer than three (3) days' vacation, these days need not be exhausted prior to being placed in differential status.
- B. In all cases, the employee may choose, upon written request to his/her supervisor, to use all available vacation prior to being placed in differential status.

6.70.4 Transfer of Sick Leave (Ed. Code 45202)

Any classified employee of any school district, county superintendent of schools office, or community college district who has been so employed for a period of one year or more, whose employment is terminated for reasons other than action initiated by the employer for cause and who subsequently accepts a classified position with the County Office of Education within one year of such termination, shall be credited with all of the earned but unused sick leave which was credited to him/her in the former school district, county superintendent of schools office, or community college district.

6.70.5 Industrial Accident and Industrial Illness Leave (Ed. Code 45192)

- A. An employee in the classified service, who is 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 worker's compensation.
- B. Paid industrial accident leave shall be for not more than 60 working days in any one fiscal year. Fiscal year is defined as July 1 through June 30 of each year.
- C. Paid industrial accident leave shall be reduced by one day for each day of authorized absence regardless of the temporary disability allowance made under worker's compensation. Days absent while on paid industrial accident leave shall not be deducted from the number of days of paid sick leave to which an employee may be entitled.

- D. 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 he/she is eligible therefore. 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 Compensation Insurance Fund.
- E. 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 earned leave to the extent necessary to make up the employee's regular salary when receiving a temporary disability allowance without penalties from the State Compensation Insurance Fund.

After the expiration of all paid leave privileges, the County Office of Education 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 36 months for any one industrial accident or industrial illness.

- F. Upon return to service from any paid or unpaid leave resulting from an industrial accident or industrial illness, an employee shall be assigned to a position in his/her former class ahead of any employee with a lesser amount of seniority. If no vacancy exists in his/her former class, he/she may displace the most recently appointed employee in the class with less seniority. If an employee's former class has ceased to exist, the employee may be reassigned or placed on a suitable reemployment list.
- G. 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 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.
- H. When all paid or unpaid leaves of absence have been exhausted following an industrial accident or industrial illness, the employee's name shall be placed on the reemployment list for the class from which he/she was on leave for a period not to exceed 39 months.
- I. An employee who fails to accept an appropriate assignment after being medically approved therefore shall be removed from the reemployment list. Appropriate assignment is defined as an assignment to the employee's former class, in his/her former status and time basis, and in assignment areas in which the employee has made himself/herself available. Employees removed from a reemployment list under this Rule may appeal the removal to the Personnel Commission.

- J. While an employee is on any paid leave resulting from an industrial accident or industrial illness, the employee's salary paid by the County Office of Education shall not, when added to a normal temporary disability allowance award without penalties granted the employee under State Workers' Compensation Insurance laws, exceed the employee's regular salary. A permanent employee's salary is computed on the basis of the number of hours and days in his basic daily assignment. An employee who is not permanent shall have his/her regular salary computed on the basis of the average number of hours worked each month in which the employee was in paid status during the preceding year.

During all paid leaves resulting from an industrial accident or industrial illness, the employee shall endorse to the County Office of Education all wage-loss benefit checks received under State Workers' Compensation Insurance laws. Warrants issued by the County Office of Education to the employee under these provisions shall be less deductions for normal retirement and other authorized contributions.

Final allowance for permanent industrial disability settlements shall not be subject to remittance to the County Office of Education under this Rule.

6.70.6 Bereavement Leave (Ed. Code 45194) (Rev. "A"-“C” 7/09)

- A. Probationary, permanent and provisional employees shall be allowed regular pay for eight (8) working days when absent on account of the death or critical illness or injury where death appears imminent of a child, adopted child, or current stepchild, foster child, spouse/domestic partner, biological/adoptive parent, or a current stepparent.
- B. The employee will be allowed five (5) working days with full pay for absence because of the death or critical illness where death appears imminent of other members of his/her immediate family.
- C. Other member of immediate family means grandmother, grandfather, grandchild of the employee or of the employee's spouse, current son-in-law, current daughter-in-law, brother, current brother-in-law, sister, current sister-in-law, current mother-in-law, current father-in-law, aunt or uncle of the employee, or any relative living in the immediate household of the unit member.
- D. In cases of hardship situations, the County Office of Education may extend the leave.

6.70.7 Personal Necessity (Ed. Code 45207, Article 13.3 Negotiated Agreement) (Rev. "A" and "A.5." 5/10)

- A. A probationary or permanent employee may elect to use, not to exceed seven (7) days in any one fiscal year, sick leave which has been earned pursuant to Education Code Section 45191, for personal necessities. The employee shall not be required to secure advance permission for leave taken for any of the following reasons:
1. Bereavement leave which may be necessary beyond that authorized in these rules and law.
  2. Accident, involving his/her person or property, or the person or property of a member of his/her immediate family.
  3. Serious or critical illness of a member of the immediate family calling for services of a physician and verified by the physician's statement, and of such an emergency nature that the immediate presence of the employee is required during his/her work day.
  4. Appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction.
  5. Compelling personal importance which does not include: A) Participation in recreational activities or attendance at sporting events; B) Outside employment or other means of earning additional income for the employee.
- B. Immediate family as used in this section shall have the same meaning as provided in Section 6.70.6B of these Rules.

6.70.8 Civic Duty Leave (Ed. Codes 44036 and 44037)

- 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. The employee shall receive full pay while on leave, provided that the jury service fee for such leave is assigned to and the subpoena or court certification is filed with the County Office of Education. Request for Civic Duty Leave shall be made on approved forms accompanied by the official court summons to jury service.

- B. Leave of absence to serve as a witness in a court case shall be granted an employee when he/she 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. The employee shall receive full pay during the leave period, provided that the witness fee for such leave is assigned to and the subpoena or court certification is filed with the County Office of Education. Request for leave of absence to serve as a witness shall be made on approved forms accompanied by the official court summons.
- C. The jury and witness fees referred to in A and B do not include reimbursement for transportation expenses.
- D. Employees are expected to return to work during any day or portion thereof in which civic duty services are not required.

6.70.9 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 of Education without deduction of pay or other penalty, provided two days' notice is given to his/her immediate supervisor.

6.70.10 Military Leave (Ed. Code 45059) (Revised 2/28/18)

- A. Military leave of absence shall be granted and compensated in accordance with the Military and Veterans Code Sections 389 and 395 et al. Employees shall request such leave on approved forms accompanied by a copy of the "orders." Upon request, the employee will provide status reports.
- B. In addition to any other entitlement for sick leave with pay, a newly hired classified employee who is a military veteran with a military service-connected disability rated at 30 percent or higher by the U.S. Department of Veterans Affairs shall be entitled to sick leave with pay of up to 12 days for the purpose of undergoing medical treatment for his/her military service-connected disability. An eligible employee employed less than five days per week shall be entitled to such leave in proportion to the time he/she works.
- C. The amount of leave shall be credited to the employee on the first day of employment and shall remain available for the following 12 months of employment. Leave not used during the 12-month period shall not be carried over and shall be forfeited.
- D. The Superintendent or designee may require verification that the employee used the leave to obtain treatment of a military service-connected disability.

6.70.11

Leave of Absence Without Pay (Ed. Codes 45190 and 45198) (Revised 2/28/18)

- 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 Superintendent or his/her designated representative, subject to the following restrictions:
  - 1. Leave of absence without pay shall be requested on approved forms and may be granted for a period not exceeding one year, except that a leave of absence for military service shall be granted as provided by the Education Code and the Military and Veterans Code, and a leave of absence for service in the Peace Corps, Red Cross or Merchant Marine during time of national emergency, may be granted for a period not to exceed 24 months.
  - 2. The granting of a leave of absence without pay gives the employee the right to return to his/her position at the expiration of the leave, provided he/she is physically and legally capable of performing the duties. The position may be temporarily filled only for the duration of the leave, and any regular employee so assigned must be reassigned upon the incumbent's return to duty.
- B. The Superintendent 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. The appeal by the employee will stay the cancellation directive of the Superintendent until action by the Personnel Commission, which shall be final and binding.
- C. Employees on unpaid leave of absence shall be considered to be in continuous employment, however shall not earn sick leave or vacation time while on such leave. They will be entitled to their next scheduled step increase provided they have worked at least 75% of all scheduled workdays.
- D. An employee may make a written request to the Superintendent to return to work prior to the expiration date of the leave. The Superintendent may approve or reject the request.
- E. If an employee cannot be placed in a vacant position in his/her class upon return from leave of absence, he/she shall have bumping and reemployment rights, in accordance with his seniority, in the same manner as if he/she had been laid off for lack of work or lack of funds on the date his/her leave expires.

6.70.12 Maternity Leave (Ed. Code 45193) (Revised 9/13/76 and 6/3/99)

- A. Maternity leaves are defined as temporary disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery there from and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment.
- B. An employee who is required to be absent from duties because of pregnancy, miscarriage, abortion, childbirth and recovery there from must request a maternity leave of absence.
- C. The employee has the option of requesting unpaid maternity leave without the use of sick leave.
- D. The employee must submit a request for maternity leave on approved forms when she becomes aware of her pregnancy. The request must be accompanied by a statement from the employee's physician confirming the pregnancy and the projected date of delivery.
- E. The length of the leave, including the date on which the leave commences, shall be determined by the employee and the employee's physician with notification to the supervisor. Maternity leave ceases as soon as the employee's physician certifies in writing that the temporary disability has ended; provided, however, that such leave shall normally terminate not later than 45 calendar days following childbirth or the termination of pregnancy, unless it is verified by written statement from the employee's physician that the temporary disability still exists, in which case such leave may be extended until such time that the physician certifies that the disability has terminated.

6.70.13 Parental Leave (Ed. Code 45196.5) (Revised 2/28/18)

- A. Classified employees may elect parental leave for baby bonding for the birth, adoption, or foster placement of a child for up to twelve (12) weeks. A classified employee's request for parental leave shall be submitted no later than four (4) weeks before the leave is to begin. This leave is available to either parent.
- B. To be eligible for parental leave, a classified employee must have worked for EDCOE for at least twelve (12) months. Eligibility for parental leave pursuant to Education Code 45196.1 shall not require 1,250 hours of service with EDCOE during the previous 12 months.
- C. While absent from work on parental leave, classified employees shall be entitled to up to twelve (12) weeks of differential pay. While on parental leave, accumulated sick leave shall be used. In the event that accumulated sick leave is exhausted, classified

employees shall be paid the difference between their regular salary and the salary of a substitute. A classified employee will receive no less than 50% of his/her salary during parental leave after his/her sick leave has been exhausted.

- D. Non-paid days during breaks in school are not included in the twelve (12) weeks. If the school year ends before the twelve (12) week period ends, the remainder of parental leave may be taken in the following school year.
- E. Only one twelve (12) week period of parental leave per birth, adoption, or foster placement may be taken. Parental leave runs concurrently with California Family Rights Act Leave. Medical benefits remain in force during parental leave. (Education Code 45196.1, CBA Article 13.12)

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

- A. Any permanent classified employee who accepts an assignment within the County Office of Education to an exempt, temporary, or limited-term position shall, during such assignment, be considered for status purposes as serving in his regular position, and such assignment shall not be considered separation from service.
- B. The employee may, with the approval of the unit supervisor/s, voluntarily return to his/her position or a position in the class of his permanent status prior to the completion of service in an exempt, temporary, or limited-term position. Failure to complete the required service, unless approved as specified herein, will constitute abandonment of position and may be grounds for disciplinary action.

6.70.15 Leave of Absence for Retraining (Ed Codes 45380 through 45387)

In the event that the Superintendent contemplates the abolition of positions in the classified service and creation of new positions because of automation, technological improvements, or for any other reason, it may provide for retraining of displaced employees in accordance with this rule.

- A. To be eligible for retraining leave, an employee must:
  - 1. Have served at least three years in the County Office of Education.
  - 2. Be serving in a position which the County Office of Education contemplates abolishing, or show that the retraining will clearly benefit the County Office of Education.
  - 3. Indicate a willingness to undergo the prescribed training program.



4. Indicate a willingness to serve the County Office of Education for at least two years after successful completion of the retraining program.
- B. The Superintendent shall prescribe the retraining program and may provide the program internally or designate the institution or place where the program is to be given.
  - C. The employee shall be considered a permanent employee for all purposes during the period of the retraining program and shall receive his normal compensation and benefits. The County Board may prescribe duties, if any, to be performed by the employee on behalf of the County Office of Education during retraining leave.
  - D. The Superintendent shall provide for reasonable expenses necessary for the prescribed retraining, but may recover costs from the employee if he/she fails to complete the prescribed retraining program.
  - E. The Superintendent may establish retraining programs for purposes other than outlined in this rule and grant leaves of absence for retraining in the same manner as for study leaves of absence, except that the three-year service requirement shall prevail. Such programs must be endorsed by the Commission and must be available to all qualified employees of the County Office of Education, except that approval for such leave shall be discretionary with the County Board.

6.70.16

Economic Fringe Benefits While on Unpaid Leave

- A. Employees granted an unpaid leave of absence shall have their County Office of Education paid fringe benefit programs discontinued in accordance with the following schedule:
  1. Employees commencing an unpaid leave on the first (1st) day of any month through the twenty-fifth (25th) day of the same month shall have their benefit programs discontinued at the end of that month.
  2. Employees commencing an unpaid leave on the twenty-sixth (26th) day of a month through the last day of the same month shall have their benefit programs discontinued at the end of the month following the month in which the leave began.
- B. An employee may continue fringe benefit coverage while on unpaid leave by paying the entire premium cost in advance each month.

**6.80 LAYOFF**

**6.80.1 Procedure Regarding Layoff (Ed. Codes 45115, 45117, and 45308) (Revised 1/13/04; 12/12/13)**

- A. When classified employees are laid off for lack of work or lack of funds, layoff shall be made in inverse order of seniority in the class in which the layoff occurs. The employee who has been employed the shortest time in the class, plus higher classes, shall be considered to have least seniority, and, therefore, shall be laid off first.
- B. The names of permanent and probationary employees thus 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 the relative order of seniority. Persons on this list shall remain eligible for a period of 39 months from the day of layoff.
- C. For purposes of this section, "Seniority" is defined as stated in Article 5 section 5.9 and Article 11 section 11.1 of the negotiated agreement between the County Superintendent of Schools and the California School Employees Association Chapter 488, "seniority is determined by the length of service beginning with the current continuous employment period".  
  
Nothing contained in this section shall preclude the granting of "length of service" credit for time spent on military leave of absence, or unpaid illness leave, or unpaid industrial accident leave.
- D. Employees subject to layoff shall be given notification no less than 60 days prior to the date of the layoff, at which time they will be given written notice of their displacement rights and reemployment rights.

**6.80.2 Rights of Employees Laid Off for Lack of Work or Funds**

In addition to the procedure and rights prescribed in Rule 6.80.1, permanent employees in the classified service have the following rights:

- A. Bumping--A permanent employee in the classified service who is laid off from a class and who has previous service in an equal or lower class shall have the right to bump 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. Reemployment--They shall be eligible to be reemployed for a period of 39 months and shall be reemployed in preference to

new applicants and shall have the right to participate in promotional examinations within such period.

- C. Voluntary Demotion or Voluntary Reduction--Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff or to remain in their present positions rather than be reclassified or reassigned, shall be granted the same rights as persons laid off and shall retain eligibility to be considered for reemployment for an additional period of up to 24 months provided that the same tests of fitness under which they qualified for appointment to the class still apply. The Personnel Commission shall make the determination of the specific period of eligibility for reemployment on a class-by-class basis.

6.80.3 Limited-Term Positions

- A. No regular employee shall be laid off from any position while employees serving under limited-term appointment are retained in positions of the same class in the same organizational unit unless the regular employee declines the limited-term position.
- B. A limited-term employee may be laid off at the completion of his/her assignment without regard to the procedure set forth in this rule.

**6.90 RESIGNATIONS**

6.90.1 Procedures

When classified employees desire to resign from their positions, they shall place their intent in writing and submit it to their immediate supervisor. Such letter of resignation shall include the following:

- A. Title of position from which resigning;
- B. Effective date of resignation; and
- C. Reason(s) for resignation.

Employees shall give notice a minimum of ten (10) working days before the effective date of their request.

6.90.2 Rights

A resignation relates only to the specific position from which employees resign and does not impair their rights to other positions which they may hold on eligibility lists, except that employees who resign shall have their names removed from promotional eligibility lists.

Resignations become final when accepted and approved by the superintendent or his/her designee, but may be withdrawn by the employee prior to such approval.

**CHAPTER 7  
DISCIPLINARY ACTION AND APPEAL**

**7.10 DISCIPLINARY ACTIONS AND APPEALS (Revised 7/05)**

7.10.1 Causes for Disciplinary Action (Ed. Codes 44010, 45123, 45124, 45302, and 45303)

Persons employed in the classified service may be suspended, demoted, or dismissed for any of the following causes. Specific instances must be set forth as to any of the causes enumerated.

- A. Incompetence- A pattern of below standard work performance.
- B. Inefficiency- The continued inability to perform the assigned duties of the position.
- C. Insubordination- Knowingly refusing to perform lawful and reasonable assigned duties.
- D. Inattention to or Dereliction of Duty- A pattern of continued neglect or dereliction in the performance of assigned duties.
- E. Willful and persistent violation of the Education Code, of rules and regulations, and/or procedures adopted by the County Office when such procedures are made known to the employee in writing.
- F. Knowingly falsifying or withholding any material information supplied on application forms and employment records.
- G. Possession of open alcoholic beverage containers on County Office property, drinking alcoholic beverages on County Office property, or being intoxicated while on duty.
- H. The use or possession while on duty of illegal drugs.
- I. Arrested, being formally charged, and convicted on a sex offense as defined in the Education Code 44010 or determination as a sexual psychopath pursuant to the Education Code 45124.
- J. Arrested, being formally charged, and convicted of a narcotics offense as defined in Education Code 44011.
- K. Engaging in political activities during assigned hours of duty.
- L. Conviction of a crime involving moral turpitude.
- M. 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.

- N. Repeated unexcused absence or tardiness, abuse of leave privileges, or absence without notification.
- O. Abandonment of position- Failure to report to duty for three (3) consecutive working days without notification or permission. (except in the case of a dire emergency)
- P. Violation of local, state, or federal law which results in the cancellation or suspension of a license required for the performance of the assigned duties.
- Q. Dishonesty, theft, willful misuse for personal gain, and/or willful destruction of County Office property.
- R. Ethnic, racial, religious, or sexual harassment of another employee.
- S. Failure to obey a subpoena issued by the Personnel Commission and duly served during assigned hours of duty, and/or refusal to furnish testimony or documents, other than those deemed to be self-incriminating, at a hearing or investigation before the Personnel Commission or Superintendent.
- T. Advocacy of the overthrow of the federal, state, or local government by force, violence, and/or other unlawful means.
- U. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment and/or being a member of the communist party.

7.10.2

Procedure for Disciplinary Action (Ed. Code 45304)

- A. For the causes set forth in Section 7.10.1, an employee may be suspended without pay for not more than 30 days, except as provided in subdivision F, I and J, or may be demoted or dismissed.
- B. The supervisor shall personally deliver to the employee a notice of proposed disciplinary action. If personal service is impracticable, the notice shall be addressed to the employee at his/her last known address and sent by registered or certified mail. The notice shall include:
  1. The proposed disciplinary action.
  2. The effective date of the proposed action.
  3. The reasons for such action expressed in ordinary and concise language describing the specific acts of violation or omissions.

4. A statement that the employee has the right to request a hearing with the Superintendent or designee within five (5) days of receipt of the proposed disciplinary action.
  5. The employee's right to see and obtain copies of all evidence and documentation which supports the County's decision to implement a disciplinary action.
  6. The employee's right to respond to the charges before the Superintendent or designee, and that such request must be made within five (5) days of receipt of the notice of the proposed disciplinary action.
- C. Within five (5) days of receiving the request of the employee, the Superintendent, or designee, shall conduct a hearing to allow the employee to respond to the charges.
  - D. Within ten (10) days of the hearing, or upon failure of the employee to request a hearing or to appear at the designated hearing, the Superintendent shall notify the supervisor and the Personnel Director of the decision to dismiss, modify, or implement the recommended action.
  - E. Within five (5) working days of the approval of a suspension, demotion, or dismissal, the Personnel Director shall file the written charges prepared pursuant to subdivision B with the Commission and give a copy of the charges to the employee or deposit such copy in the U.S. registered mail with postage prepaid, addressed to the employee at his/her last known address. The charges shall include a statement advising the employee of his/her right to appeal under Personnel Commission Rule 7.10.3. (Authority Education Code Section 45304)
  - F. When the Superintendent or person authorized by the Superintendent determines that an act or omission of an employee warrants immediate removal of such employee from his/her assigned duties, such employee may be suspended immediately and without pay for ten (10) working days or less as provided in this section, except that the written notice required by subdivision B may be given within ten (10) working days after the effective date of the suspension.
  - G. Whenever an employee is charged with the commission of any sex offense as defined in Section 44010 or any narcotics offense as defined in Section 44011, or a violation of subdivision 1 of Section 261 of the Penal Code, Section 11357 to 11261, inclusive, 11363, 11364, or 11377 to 11382, inclusive, insofar as such sections relate to, any controlled substances in paragraph (4) or (5) of subdivision (b) of Section 11056, or any controlled substances in subdivision (d) of Section 11054 except

paragraphs (1), (11), (12) and (17) of such subdivision of the Health and Safety Code by complaint, information, or indictment filed in a court of competent jurisdiction, the Superintendent may immediately suspend the employee for a period of time extending for not more than ten (10) days after the date of the entry of the court judgment; provided that the suspension may be extended beyond such 10-day period that, the Superintendent will dismiss the employee 30 days after the service of the notice, unless the employee demands a hearing. An employee so suspended shall continue to be paid his/her regular salary during the period of the suspension if and during such time as he/she furnishes to the Superintendent suitable bond, or other security acceptable to the Superintendent guarantee that the employee will repay to the Superintendent the amount of salary so paid to him/her during the period of the suspension in case the employee is convicted of such charges, or he/she does not return to service after such period of suspension. If the judgment determines that the employee is not guilty of such charges, or if the complaint, information or indictment is dismissed, the El Dorado County Office of Education shall reimburse the employee for the cost of the bond; or, if the employee has not elected to furnish such bond, the El Dorado County Office of Education shall pay to the employee his/her full compensation during the period of the suspension; provided he/she returns to service after such period of suspension. (Authority Education Code Section 45304)

7.10.3 Appeals (Ed. Codes 45305 and 45306)

- A. A permanent employee who has been suspended, demoted or dismissed may appeal to the Personnel Commission within 14 days after receipt of 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 race, color, national origin or ancestry, sex, marital status, age, or physical handicaps, except as provided in Rules 7.10.1 K. and U.
  3. That there has been an abuse of discretion.
  4. That the action was not in accord with the facts.
  5. That the penalty invoked was excessive.

- B. The Commission shall investigate the matter on appeal and may require further evidence from either party, and upon request of the accused employee, shall order a hearing. The Commission shall fix the time and place of the hearing which will be within a reasonable length of time from the receipt of the appeal. The investigation and hearing shall be confined to the reasons for action as charged in the statement of charges and the relevant defenses set forth in the appeal and answer. (Authority Education Code Section 45306)
- C. A permanent employee who has not served the full probationary period for a class to which the employee was promoted and who is demoted to the class from which promoted may request an investigation by the Commission within 14 days after the effective date of the demotion. The Commission shall conduct an investigation and if the Commission's investigation and findings indicate any violation of any of the employee's constitutional rights, it shall order reinstatement of the employee to the promoted position with back pay for salary lost due to the demotion. The decision of the Commission shall be binding on the Superintendent. (Authority Education Code Section 45305)

7.10.4 Procedures for Hearings

- A. The Personnel Commission may conduct hearing of appeals or may appoint a hearing officer to conduct the hearing and report findings and recommendations to the Commission.
- B. Hearing 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. Hearings shall be held in executive session unless the employee requests a public hearing.
- D. The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of testimony and evidence. It shall base its findings on the preponderance of evidence.
- E. Each side will be permitted an opening statement (Superintendent first) and closing arguments (employee first). The Superintendent shall first present its witnesses and evidence to sustain the charges and the employee will then present his/her witnesses and evidence in defense.
- F. Each side will be allowed to examine and cross-examine witnesses.



- G. Both the Superintendent and the employee will be allowed to be represented by counsel.
- H. The Commission may, and shall if requested by the Superintendent or the employee, subpoena witnesses and/or require the production of records or other material evidence.
- I. 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.
- J. The Commission, after it concludes the hearing, may deliberate its decision in closed session.
- K. The Commission shall render its judgment as soon after the conclusion of the hearing as possible and, in no event, later than 14 days. Its decision shall set forth which charges, if any, are sustained and the reasons therefore.
- L. 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 Superintendent.
- M. The Commission's order of judgment will be filed with the Superintendent and will set forth its findings and decision.
- N. If a disciplinary action is not sustained, its order shall set forth the effective date of the action ordered by the Commission and all pertinent charges shall be voided and removed from the employee's personnel record. The Superintendent shall direct all back pay and benefits to be reimbursed from the time the action was taken.
- O. Upon receipt of the Commission's written decision, the Superintendent shall forthwith comply with the provision therefore. In all appeals of disciplinary action the decision of the Commission is final and binding.
- P. The employee or his representative may obtain a copy of the transcript of the hearing upon written request in sufficient time prior to the hearing to obtain a qualified person to make such transcript and agreement to pay for necessary costs.

7.10.5 Failure to Appeal or Answer

If the employee fails to appeal within the time provided here in, or if the employee files written notice of appeal but does not file his/her written answer as provided herein, the order of demotion, dismissal or suspension shall be final without any action by the Commission.

7.10.6 Dismissed Employees not Eligible

Any classified employee dismissed from employment shall be removed forthwith from all eligible lists and may not take examinations thereafter without specific consent of the Commission.

**CHAPTER 8  
WAGE AND SALARY PROVISIONS**

**8.10 DETERMINATION OF SALARY SCHEDULES (Ed. Codes 45260 and 45261)**

**8.10.1 Factors in Salary Determination**

The Personnel Director shall prepare recommendations for the allocation of classes to salary schedules for approval by the Commission. These recommendations shall 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 governmental agencies which may be in competition with the County Office of Education in the labor market.
- C. The principle of like pay for like work within the classified service.
- D. Appropriate differentials between related classes to reflect differences in duties and responsibilities, as established in the classification plan.
- E. Such other information as the Commission may require.

**8.10.2 Salary Studies**

- A. A salary study shall be made:
  - 1. Whenever a new class is created;
  - 2. When there is a request in accordance with the provisions of Section 8.10.2B and the Commission so directs.
- B. Employees, employee representatives, or 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 representatives. Staff shall indicate its tentative recommendations and shall meet and confer with employee organization representatives and district administration. See Rule 2.20.7B. An effort shall be made to ameliorate all differences before recommendations are submitted to the Commission.

8.10.3

Salary Recommendations

- A. After making its findings, the Commission shall present salary recommendations to the Superintendent for approval.
- B. The Superintendent may approve, amend, or reject the recommendation.
- C. When the task of a position has decreased or changed to such an extent that the salary range of the position would be decreased, the employee or employees in such a position would be placed on a Y-rated salary. Those persons would 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 that of the Y-rate being received. At that time the person will be placed on the salary schedule for that position.
- D. A salary recommendation shall be made each time a new class is created. Other 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 such changes occur. See Rule 2.20.7B. By adoption of this rule, the Superintendent reserves the right to increase or decrease the salaries of classified employees at any time during the school year, pursuant to the authorization of Education Code Section 45162 in accordance with its approval of the recommendations of the Personnel Commission.

8.10.4

Appeals of Recommendations

- A. An employee or his/her representative may appeal the recommendation of the Personnel Director in regard to the salary of his/her class. He/she shall have the opportunity to present his/her case in writing and orally at a regular meeting of the Commission. The administration shall have the same privilege.
- B. If the Superintendent desires reconsideration of salary recommendations, it may return the recommendations to the Commission, which shall reconsider them at its next meeting. After reconsideration, the Commission will advise the Superintendent of its findings and the reasons therefore.

**8.20 APPLICATION OF SALARY SCHEDULES (Ed. Codes 45260 and 45261)**

**8.20.1 Initial Placement**

All new employees shall be appointed at the hiring range for the class as approved by the Commission. The hiring rate shall normally be 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 at a step above step one on that range. The accelerated hiring rate may be initiated, with approval of the Superintendent and notification to the Commission, at any step of the schedule of the class. If an accelerated hiring rate is approved for reasons other than difficulty in recruiting and/or to secure an individual with exceptional qualifications, all current employees in the class shall be advanced to that rate and shall begin a new cycle of step advancement.

**8.20.2 Step Advancement**

- A. Each salary step advancement shall be based on a satisfactory performance evaluation covering the period immediately preceding the anniversary date on which an employee becomes eligible for such step advancement. See Rule 6.10.1, 6.60.1, 6.60.2, 6.60.3 and 6.60.5.
- B. Notwithstanding the provisions of A above, employees placed on Step 1 of a range will advance to Step 2 on the first of the month following completion of the probationary period in the class. Each succeeding step will be attained one year from the preceding step. New employees placed above Step 1 will advance on one-year intervals until the maximum step has been achieved.
- C. For the purpose of this Rule, when the effective date of an appointment is between the first (1st) through the fourteenth (14) day of a month, the employee's anniversary date shall be the first (1st) day of the month in which the appointment is effective. When the effective date of an appointment is on the fifteenth (15th) through the last day of a month, the employee's anniversary date shall be the first (1st) day of the following month.
- D. Notwithstanding the above provisions, an employee who has served one (1) year at the top step of his/her salary range shall have his/her anniversary date adjusted to July 1.

8.20.3

Promotions (Revised 1/13/04 to be effective 7/1/03)

- A. An employee who receives a promotion to a class allocated to a higher salary range shall be placed on the step of the salary range that is next above the rate the employee received in the previous class that equals as closely as possible a five (5) percent salary increase. Additional advancement will be at one-year intervals thereafter until the maximum is achieved.
- B. For the purpose of this rule, appointment of an employee to a class with a salary range equal to or below his/her current range shall not be considered a promotion and shall not warrant a salary increase. In such cases placement will be made on the same rate formerly earned by the employee, not to exceed the maximum of the range of the class to which he/she is appointed.

8.20.4

Placement After Leave of Absence

- A. Upon return from a leave of absence without pay, an employee shall be placed on the same step of the range for the class which he/she had achieved prior to the leave, regardless of changes in rate or range applicable to the class; except that step advancement within the range shall be granted when:
  - 1. The time period required for step advancement has elapsed and the employee has served in active duty on at least 75 percent of the working days in his/her 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 during leaves of absence for military service or to serve in limited-term assignments in the Office of Education and during any paid absence, industrial accident and industrial illness leaves.
- C. When an employee is restored after a leave of absence to his/her previous salary step, he/she shall receive credit for step advancement for service prior to the leave. His/her anniversary date shall be adjusted accordingly in order that he/she shall be granted step advancement after having completed the amount of service required by Rule 8.20.2.

8.20.5

Placement When Demoted

- A. An employee who accepts voluntary demotion shall be placed on the step of the range of the lower class which is closest to the rate he/she earned in the higher class, provided that he/she shall not receive a salary increase thereby. He/She shall retain the anniversary date established in the higher class.
- B. The order in an involuntary demotion shall specify the step of the schedule at which the employee shall be placed. Step advancement shall be in accordance with Rule 8.20.2.

8.20.6

Differential Pay

- A. All positions, the regularly assigned time of which requires the incumbents to work one-half the shift or more between the hours of 5 p.m. and 7 a.m., shall be paid at monthly rates one step higher or an hourly rate of equivalent percentages, i.e. 5%, higher than the rates or rate for daytime employees in that class. If such shifts normally occur less frequently than five days per week, such higher rates shall be paid only for those days on which such shifts occur.
- B. Employees assigned to night work on a continuous basis who are ordered to temporary daytime work for periods not to exceed ten (10) working days each shall suffer no reduction in compensation by reason of the change. On the eleventh (11th) working day pay rates shall revert to the daytime rate.

**8.30**

**WORK PERIODS AND OVERTIME (Ed Codes 45127, 45128, 45129, and 45131)**

8.30.1

Workday and Workweek

- A. The maximum number of hours of employment is 40 hours a week and eight hours in one day. However, the Superintendent 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 40 hours in one week.
- B. With the approval of the Personnel Commission, the Superintendent may establish a 10-hour day, four-day workweek, for specific classes of employees on a yearly or seasonal basis, provided such a work schedule is approved by a majority of the regular employees in the affected classification. Such a workweek shall not affect usual holiday, overtime, and other benefits usually entitled to an employee.

- C. The workweek for full-time employees shall consist of five 8-hour days or four 10-hour days within a seven day period. The normal workweek shall be eight (8) hours per day, Monday through Friday.
- D. During weeks in which a holiday falls, persons assigned to a 4-day 10-hour schedule may be changed to a 5-day 8-hour schedule.
- E. With prior notice to an employee, the employee's work assignment may be modified to meet program needs.
- F. Employees whose work schedules are dependent upon student contact may have their work days or work year altered to accommodate the various student attendance schedules of user school districts.
- G. Nothing in this rule shall restrict an extension of the regular workday or workweek on an overtime basis when such is necessary to carry on business.

8.30.2 Overtime Defined

- A. Overtime is working time ordered and authorized in excess of the eight (8) hour day or ten (10) hour day and forty (40) hour workweek.
- B. In determining the eligibility of an employee to receive the prescribed overtime rate, the number of hours "worked" by an employee shall include time during which the employee is suffered or permitted to work for the Employer whether or not authorized or ordered by the immediate supervisor. Except for emergencies, unit members who work unauthorized overtime may be subject to disciplinary action.
- C. An employee having an average workday of four hours or more and a workweek of five consecutive days shall be compensated for work performed on the sixth or seventh day at the overtime rate. An employee having an average workday of less than four hours in a five-consecutive-day week shall be compensated for work performed on the seventh day at the overtime rate.
- D. An employee having an average workday of ten hours and a workweek of four consecutive days shall be compensated for work performed on the fifth, sixth and seventh day at the overtime rate.

8.30.3 Compensation for Overtime - Cash and Compensatory Time Off

- A. An employee who works authorized overtime earns at a rate equal to one and one-half times his/her regular rate of pay for



the overtime worked. Shift and special assignment differentials regularly received by the employee shall be included in determining the regular rate of pay.

- B. Except in an emergency which prevents pre-approval, all overtime must be authorized in advance by the employee's supervisor. Emergency situations must be brought to the attention of the supervisor as soon as practicable.
- C. Whenever possible an employee shall take compensatory time off in lieu of payment for overtime.
- D. Employees may not accrue more than 240 hours of compensatory time off (160 x 1.5). Overtime worked after the maximum accrual is reached shall be compensated by cash payment.

## **8.40 HOLIDAY PAY**

### **8.40.1 Eligibility**

- A. All regular classified employees are entitled to payment for authorized holidays, provided they were in a paid status during any portion of the working day immediately preceding or succeeding the holiday.
- B. Holidays include those authorized in the Education Code and those declared by the President, the Governor, or the County Board. If the holiday falls on Saturday, the preceding Friday shall be deemed the holiday. If the holiday falls on Sunday, the following Monday shall be deemed to be the holiday.
- C. The holidays under B are guaranteed holidays for all members of the classified service who establish eligibility for same under A above, except that employees serving in positions created under Rule 3.10.5 are exempt from guaranteed holidays.
- D. Pay for a holiday shall be the same the employee would have received had the day not been a holiday.
- E. Classified employees required to work on holidays shall be paid for such work as prescribed in Rule 8.30.3 in addition to regular pay for the holiday.
- F. On any school day during which students would otherwise be in attendance but are not, and for which certificated personnel received regular pay, classified personnel shall so receive regular pay whether or not required to work that day.

8.40.2 School Holiday Periods

Regular employees not assigned to duty during school holidays which include December 25 and January 1 shall be paid for those two holidays, provided they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period. Christmas and Spring recess periods shall not be considered holidays for employees normally required to work during that period.

8.40.3 Exchange of Holidays by Superintendent Action

- A. The Superintendent may, prior to July 1 of any year, specify, if so authorized in law, that the Office of Education will be maintained and classified employees are required to work on any or all of these holidays: Admission Day, Veteran's Day, Lincoln's Day, Washington's Day, and Memorial Day.
- B. If the Superintendent lawfully takes such action he/she shall designate another day during the same school year as a holiday for classified employees in lieu of the regular, normal holiday.
  - 1. The day specified as the "in lieu" holiday shall be a day when all classified employees who would normally have established eligibility for the regular holiday will also be able to establish eligibility for the "in lieu" holiday.
  - 2. The day designated as an "in lieu" holiday shall provide classified employees with at least a three-day weekend.
- C. If the Superintendent fails to comply with Rule B.1 above, employees who will not normally be able to establish eligibility for the "in lieu" holiday and who are required to work on the regular holiday, shall be paid, in addition to the normal pay for the holiday, at the rate of time and one-half for time required to be worked.

**8.50 PAYROLLS**

8.50.1 Official Roster

The Personnel Director shall maintain, in his/her office, an official documentation containing the names and complete employment records of all employees holding positions under the provisions of the Act.

8.50.2 Payroll Audit

The Personnel Director shall audit all initial assignments and changes of assignment 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 for certification by the Personnel Director. Each payroll following the initial assignment and certification by the Personnel Director shall bear the certification of the department authorized to submit the payroll that all payments thereon are in accordance with the original certification by the Personnel Director.

The Personnel Director shall make periodic audits of all payrolls, and if he/she finds assignments not in accordance with law and rules, he/she shall withdraw his/her certification and order payment stopped.

**8.60 BENEFITS FOR PART-TIME EMPLOYEES**

- A. Benefits for persons employed less than full time are to be provided as authorized in Education Code Sections 45126 and 45137.
- B. Sick leave, vacation, and all other benefits accorded members of the classified service are to be prorated for part-time employees on the basis of actual hours worked per day as it bears to 8 hours, 40 hours per week, weeks per month, or months to a calendar year.

**CHAPTER 9**  
**PROCEDURE FOR THE ADJUSTMENT OF GRIEVANCES OF CLASSIFIED PERSONNEL**  
**(REVISED 2/28/18)**

9.1            **Definitions**

A. A "grievance" is a claim of an alleged violation, misapplication, or misinterpretation of any specific provision of this Agreement which adversely affects the grievant.

B. The "grievant" is an Association member who has properly submitted an alleged grievance.

C. "Days" as used in this procedure shall mean any day in which EDCOE is regularly open for business.

D. "Immediate Supervisor" refers to that person who has immediate responsibility for directing the work force within his/her geographic area of influence.

9.2            **Purpose**

A. The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to a grievance(s) which may, from time to time, arise affecting the welfare or working conditions as defined under the terms and provisions of this Agreement. Both parties agree that these proceedings will be kept as informal and confidential as may be appropriate at any level of the procedure.

B. Since it is important that grievances be processed as rapidly as possible, every effort should be made to expedite these procedures. The time limits, however, may be extended or decreased by mutual agreement of both parties.

9.3            **Procedure**

A.    **Informal Level:**

1. Before filing a formal written grievance, the grievant shall attempt to resolve the grievance with an informal conference with his/her immediate supervisor.
2. In cases in which the proposed remedy would entail a financial outlay by EDCOE, the grievant shall notify his/her immediate supervisor within 10 days after the grievant knew or should have known of the act or omission giving rise to the problem.
3. A second informal discussion may be held between the grievant and a representative of his/her choice and the grievant's immediate supervisor. Whether or not to have this meeting shall be at the discretion of the grievant.
4. If the Grievant is not satisfied with the disposition of the grievance, or if no disposition has been reached within ten (10) days of the

meeting with the immediate supervisor, the Grievant may advance to Level 1 (Immediate Supervisor).

B. Formal Levels:

1. Level I – Immediate Supervisor:

- a. Within ten (10) days after the occurrence of the act or omission giving rise to the grievance, the grievant must present the grievance on the classified grievance form to his/her immediate supervisor.
- b. This statement shall be a clear, concise statement of the circumstances giving rise to the grievance, citation of the specific article, section and paragraph of this Agreement that is allegedly violated, the decision rendered at the informal conference, if any, and the specific remedy sought.
- c. The supervisor or designee shall communicate the decision to the grievant in writing within ten (10) days after receiving the grievance.

2. Level II – Executive Director of Personnel:

- a. If the grievant is not satisfied with the decision at Level I, he/she may appeal the decision within ten (10) days by submitting the grievance to the Executive Director of Personnel.
- b. This statement should include a copy of the original grievance, the decision rendered, and a clear, concise statement of the reasons for the appeal.
- c. The Executive Director of Personnel shall investigate the allegations and shall communicate the decision within ten (10) days after receiving the appeal.

3. Level III – Superintendent:

- a. If the grievant is not satisfied with the decision at Level II, he/she may within ten (10) days appeal the decision on the classified grievance form to the Superintendent.
- b. This statement shall include a copy of the original grievance and appeal, the decision rendered and a clear, concise statement of the reasons for the appeal.
- c. If, in the judgment of the Association and the Employer, a grievance affects a group or class of unit members, the Association may submit such grievance in writing to the Superintendent or designee directly and the processing of such grievance shall be commenced at Level II of the formal grievance procedure.

- d. Superintendent or his/her designee shall communicate his/her decision in writing to the grievant within ten (10) days of receipt of the appeal.

4. Level IV – Mediation:

- a. If the grievant is not satisfied with the decision of the Superintendent, or no disposition has been reached within the timeframe described above, the grievance shall be referred to mediation.
- b. The Association shall request a list of ten (10) mediators from the State Mediation and Conciliation Service to be mutually agreed upon by the parties. The mediator's cost shall be split between the parties. If the parties cannot mutually agree on a mediator, selection shall proceed by alternately striking names until only one name remains, who shall be the selected mediator.

5. Level V – Arbitration

- a. If no resolution is reached at Level IV a request may be made by the Association to the Superintendent or designee, in writing, within ten (10) days of the last mediation meeting, to appeal the grievance to arbitration. EDCOE shall request a list of ten (10) arbitrators from the California State Mediation and Conciliation Service to be mutually agreed upon by the parties. If the parties cannot mutually agree on an arbitrator, selection shall proceed by alternately striking names until only one name remains, who shall be the selected arbitrator.
- b. The arbitrator's decision will be in writing and set forth the findings of fact, reasoning, and conclusions of the issues submitted. The arbitrator will have no power or authority to add to, subtract from, or modify the terms of this Agreement or make any decision which requires the commission of an act prohibited by law or which violates the terms of this Agreement. The decision will be submitted to the Association and the Superintendent and will be final and binding upon the parties. The decision shall be rendered thirty (30) days after the closing of the hearing. If any question arises as to the arbitrability of the grievance, such question will be ruled upon by the arbitrator prior to the arbitration's commencement.
- c. All costs for the services of the arbitrator, including but not limited to, per diem expenses, any court reporter his/her travel and subsistence expenses and the cost of any hearing room, will be borne equally by the County Office and the Association. All other costs, except for release time for the grievant(s), Association

representative(s) and witnesses, will be borne by the party incurring them.

C. Miscellaneous

1. Neither EDCOE, nor the Association, shall take reprisals affecting the employment status or working conditions of any employee, member of management, Association representative, or any other participant in the grievance procedure by reason of such participation.
2. The actual grievances and all documents relating thereto shall be filed separately from the unit member's personnel file.
3. At any level of this procedure, the unit member may consult with the CSEA representative or any other representative of his/her choice in order to gain assistance in preparation, investigation, or resolution of the grievance. Such assistance may extend to help in the presentation of the grievance at any formal level of this procedure or at the second informal level provided for above. However, only the time spent in the actual presentation to EDCOE shall be Employer-paid time.
4. If the employee fails to proceed to the next level within the allotted time period, the grievance will be considered settled based upon the last response given.
5. All deadlines as prescribed herein may be extended by mutual agreement between the parties.

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