

Alameda County Office of Education
Personnel Commission



& Rules Regulations *for the Classified Service*

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Rules and Regulations

for the Classified Service

Personnel Commission
of the
Alameda County Office of Education



Alameda County Office of Education
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DEFINITIONS

DEFINITION OF TERMS	<i>The following words and terms used in these Rules shall have the meaning indicated below unless the context clearly indicates otherwise.</i>
ACT	MERIT SYSTEM: Article 6, Chapter 5, Division 3, Sections 45240 through 45320 and Sections 45100 through 45410 of the Education Code of the State of California (1976).
ALLOCATION	The official determination of the class to which a position belongs and the assignment of a position to its class.
ANNIVERSARY DATE	The first day of the month following completion of the first six months of paid service as a probationary employee in a regular classified position, and used to determine annual step advancement, or in the case of reclassification, the date of such change.
APPLICANT	A person who, under the Rules, has made formal application for a classified position.
APPOINTING AUTHORITY	The County Superintendent of Schools.
APPOINTMENT	The offer and acceptance of a position in accordance with these Rules.
BOARD OF EDUCATION	The Alameda County Board of Education.
CANDIDATE	An applicant who has competed in one or more parts of an examination for employment.
CERTIFICATION	The submission of names of eligibles from an appropriate list to an appointing authority by the personnel director.
CLASSIFICATION PLAN	The arrangement of positions in classes, together with the titles and specifications describing each class.
CLASSIFIED SERVICE	All positions not required to have certification qualifications or otherwise excluded by law.
CLASS OF POSITIONS	The smallest aggregation of positions defined in the classification plan (Clerk, Custodian). It is a group of positions sufficiently alike in respect to their duties and responsibilities to justify common treatment in selection, compensation and other employment processes and sufficiently different from positions of other classes to justify different treatment in one or more of these respects. While defined as a group of positions, class may sometimes consist of but one position where no others of the same kind exist in the service.
CLASS SPECIFICATIONS	A general formal statement of the kinds of duties and responsibilities which may be performed by incumbents in the positions in the class, illustrated by examples of typical tasks and of the qualification requirements of the positions in the class.

COMPENSATION	The salary, wage allowance and all other forms of valuable consideration, earned by or paid to an employee by reasons of service in any position, but does not include monetary reimbursement for necessary expenses incurred by employees.
CONTINUOUS EMPLOYMENT	Employment uninterrupted from the date of appointment, except by authorized absence.
CONTINUOUS EXAMINATION	A method of recruiting applicants in which the last day for filing applications is not specified and examinations are conducted from time to time as the needs of the service require and there are sufficient applications on file for the class.
DEMOTION	A change in status of a permanent employee from a position in one class to a position in a lower class, defined as one having a lower maximum salary rate.
DIRECTOR	The Chief Human Resources Officer and/or the Director of Human Resources, herein also referred to as the personnel director.
ELIGIBLE	Any person on an eligible or reemployment list for a given class.
ELIGIBLE LIST	The list of those qualified for employment in a class.
EXAMINATION	One or more of the methods authorized by these Rules or by the Personnel Commission to determine the qualifications of one or more applicants.
FULL-TIME EMPLOYEE	An employee assigned to a regular budgeted position who has an average of at least thirty-seven and a half (37.5) hours of pay status in a normal work week.
JOB SPECIFICATION	<p>The official description of a class including...</p> <ol style="list-style-type: none">1. the title2. statement of the duties and responsibilities3. employment standards such as education, experience, knowledge, skills, and abilities which may be required of applicants for employment in the class.
LAYOFF	Termination of service without fault on the part of the employee due to lack of work or lack of funds.
LIMITED TERM	An appointment of limited duration not to exceed one day less than six (6) months or appointment of a substitute during the authorized absence of a permanent employee.
NEPOTISM	Favoritism in appointment of relatives.

³OCCUPATIONAL GROUP (FAMILY)	An Occupational Group is established by grouping classifications that have related qualifications and experiences. Classifications that are grouped within an Occupational Group have the same minimum requirements. As the job specifications for the classifications require a broader scope and complexity of duties, the compensation is also enhanced proportionately. As the compensation increases, the duties that are primary for the higher classifications will require additional training and experience. The intent of establishing Occupational Groups is to provide incumbents within the Occupational Groups a career ladder advancement. Within an Occupational Group, it is the expectation that the highest compensated classification possesses all the skills and qualifications of the lesser compensated classifications. This is not to say that training would not be required for class specific functions.
OPEN EXAMINATION	A competitive examination in which any qualified person may participate.
¹PART-TIME EMPLOYEE	An employee whose assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 87.5 percent of the normal work schedule.
PERMANENT EMPLOYEE	Any employee who has completed a probationary period in a regularly budgeted position.
PERMANENT POSITION	Any position which will continue for more than six months and is a regularly budgeted position.
POSITION	A combination of duties regularly assigned to be performed by one person.
PROBATIONARY PERIOD	The first six (6) months of continuous service following appointment from an eligible list to a position in the classified service.
⁴PROMOTION	Advancement through examination from one classification to a classification having a higher maximum salary rate, within the same occupational group; or, through examination moving from a classification within one occupational group to a classification in another occupational group, regardless of the rate of pay.
PROVISIONAL APPOINTMENT	The appointment of a person who has the minimum qualifications for the classification to fill a position for which no appropriate employment list exists, pending an examination.
PUBLIC NOTICE	Announcements of examinations, meetings, hearings and other actions of the Commission and Human Resources Office on the official bulletin boards in the County Office of Education.
REASSIGNMENT	The assignment of an employee from one position to another position in the same classification.
RECLASSIFICATION	A reclassification occurs when action by the Personnel Commission implements a change in a job specification that results in a changed job title, internal alignment, and/or employee

	unit designation of a position, class, or occupational group, excluding actions resulting from a classification study.
RESIGNATION	The voluntary termination of employment by an employee.
RESTRICTED POSITION	A restricted position may be regular or temporary but is established specifically for the employment of persons who are funded through federal project funds and are members of the classified service. However, the employees shall not be accorded permanency nor acquire seniority credit until they have complied with the examination requirements for the classification.
SALARY SCHEDULE	A schedule of salaries recommended by the Commission and adopted by the Board of Education or the County Superintendent of Schools for the several classes of positions included in the classification plan, so that all positions of a given class will be paid at the salary range established for the class.
²SENIOR MANAGEMENT	<p>Not more than two (2) classified positions designated by the Superintendent as an employee who:</p> <ol style="list-style-type: none">1. has county-wide responsibility for formulating policies, or2. acts as the fiscal advisor to the County Superintendent.
SEPARATION	The termination of an individual's employment.
STATUS	The condition of an employee's present appointment such as substitute, provisional, restricted, probationary, permanent or regular.
STUDENT	A full-time day student enrolled within the jurisdiction of the Alameda County Office of Education.
SUPERINTENDENT	The Alameda County Superintendent of Schools.
SUSPENSION	An involuntary absence imposed by the appointing authority for disciplinary purposes or pending investigation of charges.
TITLE OR CLASS TITLE	The official nomenclature of a class of positions.
TRANSFER	The reassignment of an employee from one position to another position in the same class; or from a position in one class to a position in another class which is allocated to the same salary range, for which the employee meets the minimum qualifications, as determined by the Personnel Commission.
VACANCY OR VACANT POSITION	Any unfilled position in the classified service.
WAIVER	The voluntary relinquishment by an eligible of any right to consideration for appointment to a specific position.
WORK DAY	A day when employees are required to be on duty as defined in the adopted calendar for the assigned position.

Y-RATE

The status of an employee whose position is reallocated to a class range which has a maximum salary that is lower than the employee's current salary. The salary is frozen at its current level until future salary range increases bring the salary range of this position to a point where the employee's salary again falls within the class range.

¹Amended February 6, 1980.

²Approved November 22, 1988.

³Approved March 16, 2000.

⁴Amended March 16, 2000.

⁵Approved June 14, 2001.

SECTION 4801

MERIT SYSTEM

4801.1 Merit System

A system based on the principle of employment and promotion on the basis of merit for the purpose of obtaining the highest efficiency and assuring the selection and retention of the best qualified persons in the service of the Office of the Alameda County Superintendent of Schools.

4801.2 Collective Bargaining Agreements

Personnel Commission Rules and Regulations shall be binding on the County Superintendent and classified employees so long as the rules do not conflict with lawful collective bargaining agreements between the County Superintendent and employee organizations.

¹Approved September 17, 1981.

SECTION 4802

ORGANIZATION AND ADMINISTRATION

4802.1 Personnel Commission

- a. The officers of the Commission shall be the Chairperson and Vice-Chairperson.
- b. The Commission shall, at its first meeting in December of each year, elect one of its members to serve as Chairperson for a period of one year. The Chairperson may serve for more than one term.
- c. At the same time and in the same manner, the Commission shall elect one of its members to serve as Vice-Chairperson.
- d. The Chairperson shall be the presiding officer at all regular and special meetings of the Commission. In the event of the absence of the Chairperson, the Vice-Chairperson shall preside.
- e. 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 September 1 of each year, the personnel director shall notify the Governing Board of the name and home address of the Commissioner whose term will expire and whether or not he/she will accept reappointment. The notification shall also show the appointing authority and include the provisions of the Education Code which the Board must follow.
- f. When the term of the Commissioner's appointment is to expire or becomes vacant, the Commission shall announce its intended appointment or reappointment in public session at a regular or special meeting prior to September 30 and shall schedule a public hearing on the intended appointment within 30 to 45 days. The two remaining Commissioners, at the public hearing, may affirm their intended appointment or may substitute an appointee without further notice.

4802.2 Meetings

- a. Two members shall constitute a quorum for the transaction of business.
- b. An annual organizational meeting of the Commission shall be the first order of business at the first meeting in December of each year for the purpose of electing officers.
- c. Commission meetings shall be scheduled on a regular monthly basis as business transactions warrant.
- d. Special meetings shall be held on call of the Chairperson or any two members of the Commission.
- e. Written notice of each special or adjourned meeting of the Commission shall be posted at least 24 hours in advance thereof at/or adjacent to the entrance of the building where the meeting will be held and in the Human Resources Office.
- f. Executive Sessions: All meetings shall be open to the public except executive sessions held in accordance with applicable law.
- g. Each meeting shall be conducted in accordance with Robert's Rules of Order Revised.
- h. All requests for investigation of personnel problems related to alleged violations of Merit System law or Personnel Commission rules brought before the Commission or the Commission staff shall be made in writing and shall include specific pertinent facts.

4802.3 Personnel Director

The Commission shall appoint a director of classified personnel and shall authorize him/her to perform all duties of the Director.

The director of classified personnel shall:

- a. Act as Secretary of the Commission.
- b. Perform and discharge such authority and duties as are delegated by the Commission.
- c. Carry out all procedures in the administration of the classified personnel in conformance with the provisions of these rules and applicable laws.
- d. Maintain various personnel records and other records of the Commission and prepare minutes of each meeting of the Commission.
- e. Designate, direct and supervise technical and clerical assistants in performing the duties of the position.
- f. Administer and maintain the Classification Plan and recommend rates of pay for each classification of position.
- g. Certify that all classified employees are employed, assigned and paid pursuant to the Education Code and the Personnel Commission Rules.
- h. Prepare, or cause to be prepared, an annual report which shall be sent by the Commission to the Board of Education and Superintendent.

4802.4 Roster of Employees and Positions

A central roster of employees and positions shall be maintained by the personnel director. It shall include the record of employment of each employee in the classified service, including dates of service, positions held, salaries received, and such other information as may be deemed appropriate.

4802.5 Reports

Responsible administrative personnel of the Superintendent's Office shall promptly refer the following matters to the personnel director for action:

- a. Requests for certification.
- b. Appointments of any and all employees.
- c. Separations of any and all employees, together with reasons thereof.
- d. Promotions, demotions, reclassifications and transfers of employees.
- e. Leaves of absence, whether with or without pay.
- f. Disciplinary actions, together with reasons thereof.
- g. Refusal or failure of certified candidates to accept employment.
- h. Other matters as the Commission may direct.

4802.6 Hearings

The Commission shall enforce the provisions of the Education Code and of these Rules. To that end, it may in accordance with the Education Code hold hearings, conduct investigations, administer oaths, subpoena witnesses, and require the inspection of records or information pertinent to investigation. The Commission may, in accordance with the Education Code, authorize a hearing officer or other representative to conduct any hearing or investigation which the Commission is authorized to conduct.

The Commission may instruct such representative to present findings or recommendations. The Commission may accept, reject, or amend any of the findings or recommendations of the said authorized representative. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation or upon the results of such supplementary hearing or investigation as the Commission may order.

4802.7 Amendment, Deletion, or Addition to Rules

- a. All proposals, from any source, to amend, delete, or add to these rules will be considered a "first reading" at the meeting in which they are first presented to the Commission. They will not be acted upon at that meeting unless a critical emergency exists, in which case the Commission will state the nature of the emergency requiring earlier action.
- b. Notices of proposed amendments will be posted prominently throughout the County Office of Education sections at least five (5) work days prior to their consideration at a subsequent meeting of the Commission.
- c. Interested parties shall submit their reactions to proposals in writing at least five (5) work days prior to the meeting date and shall have the right to present reactions to the Commission orally at the appropriate Commission meeting.

LEGAL REFERENCE: California Education Code

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| 45245. | Appointment of Members of Personnel Commission |
| 45246. | Announcement of Recommended Appointees; Public Meeting of Governing Board |
| 45247. | Terms of Office |
| 45260. | Power of Personnel Commission to Prescribe and Amend Rules |
| 45261. | Subject of Rules |

SECTION 4803

POSITION CLASSIFICATION

4803.1 Preparation of Plan

The personnel director shall ascertain the duties and responsibilities of all positions in the classified service and, after appropriate consultation with employees and administrators, shall recommend a Classification Plan to the Commission. This Plan shall consist of classes of positions in the classified service defined by specifications including title, a description of tasks with identified essential functions and statement of qualifications to be required of applicants for employment in each class. The Classification Plan shall be developed and maintained so that all positions substantially similar with respect to tasks, responsibilities, and qualification requirements are included within the same pay range. Occupational Groups will be studied on an annual rotation. The schedule shall be as follows:

2001 – 2002	<u>Information Systems / Data Processing</u>	Occupational Group
2001 – 2003	_____	Occupational Group
2001 – 2004	_____	Occupational Group
2001 – 2005	_____	Occupational Group
2001 – 2006	_____	Occupational Group

4803.2 Adoption of Plan

Before any part of the Classification Plan becomes effective, it shall first be approved by the Commission after a public hearing on the Plan. Upon the conclusion of said hearing, the Commission may make such changes or modifications of the Plan as it may believe desirable. Upon adoption by the Commission, the Classification Plan will be forwarded to the Superintendent for implementation. The Classification Plan shall be amended or revised as occasion requires in the same manner as originally established.

4803.3 Allocation of Positions to the Classification Plan

Following approval by the Superintendent of a new or changed position and by the Personnel Commission of a new or revised position description, the description shall be forwarded to the Classification Committee for assignment to a classification and placement on the Internal Alignment Chart. The Committee shall review the job description and invite any person(s) necessary to assist it in arriving at a recommendation to the Personnel Commission. The Classification Committee membership shall be as follows:

- A management employee from each of the four Divisions
- A classified (CSEA) employee from each of the four Divisions
- The Chief Human Resources Officer or designee
- The President of CSEA or designee

If the description will affect current employees, those employees shall be notified of the appeal procedure. The decision of the Commission shall be final and will be submitted to the Superintendent for implementation.

¹4803.4 Changes in Duties of Positions

Any substantial changes in the duties of existing positions shall be promptly reported in writing by the appropriate manager to the Chief Human Resources Officer. The Chief Human Resources Officer shall refer such report to the Commission which shall determine whether the positions should be allocated to a different classification and placement on the Internal Alignment Chart. The decision of the Commission shall be final and will be submitted to the Superintendent for implementation.

¹4803.5 Working Out of Classification

- a. When an employee is required to work out of classification, the fact shall be reported to the Chief Human Resources Officer who shall immediately investigate and, where necessary, report the matter to the Commission. This rule shall not be construed as permitting an employee to refuse to perform duties legally assigned by competent authority.
- b. Classified employees shall not be required to perform duties which are not prescribed for the position by the Job Specification unless the duties are reasonably related to those prescribed for the position for any period of time which exceeds five (5) work days within a 15-calendar day period except as authorized herein.
- c. An employee may be required to perform duties inconsistent with those assigned to the position by the job description for a period of more than five working days provided that the employee's salary is adjusted upward for the entire period the employee is required to work out of classification.
- ²d. Out of class assignments shall not exceed 90 days. An extension may be granted upon approval of the Personnel Commission.

¹4803.6 Review of Positions

The Chief Human Resources Officer shall review the duties and responsibilities of positions as necessary to determine their proper classification and placement on the Internal Alignment Chart. If the Chief Human Resources Officer finds that a position or positions should be reclassified, the Superintendent shall be advised of the findings. If the administration verifies the duties of the position or if the duties are not revised to fit within the current classification, the Chief Human Resources Officer shall report these findings and recommendations to the Commission.

¹4803.7 Creation of New Positions

When the Superintendent creates a new position, the procedure will be as follows:

- a. The Superintendent shall submit to the Chief Human Resources Officer in writing the duties to be performed by the position.
- b. The Chief Human Resources Officer shall submit the job description to the Classification Committee for review.
- c. The Classification Committee shall recommend the classification and its placement on the Internal Alignment Chart to the Personnel Commission.
- d. The Personnel Commission will notify the Superintendent of its action.

¹4803.8 Official Copy

The Chief Human Resources Officer shall maintain the official copy of the Classification Plan which shall be open to public inspection at any time during business hours. A copy of the Classification Plan, including class specifications, shall be furnished to each Division Director; and the Chief Human Resources Officer shall supply each Division Director with notice of changes as they are made by the Commission.

¹Amended February 23, 1988; December 7, 2000.

²Amended January 21, 1992.

LEGAL REFERENCE: California Education Code

- 45256. Establishment of Classified Service
- 45110. Inconsistent Duties; Compensation

SECTION 4804

RECLASSIFICATION

¹4804.1 Requests for Study

Requests for classification study of existing positions shall be presented to the Chief Human Resources Officer together with a statement of the reasons for requesting study. Requests for study may be initiated by the Superintendent, or by an employee(s). Requests shall be accompanied by a statement of the current authorized duties of the position(s) and any prospective changes (Position Reclassification Questionnaire). The PRQ shall be submitted to the Reclassification Study Team. The Reclassification Study Team membership shall be as follows:

- Chief Human Resources Officer
- Human Resources Administrator
- Immediate Supervisor
- Employee
- Employee Advocate/Current Classification holder
- Association Representative
- CSEA Association Representative

¹4804.2 Effective Date of Reclassification

The effective date of reclassification shall be the date the completed Position Reclassification Questionnaire (PRQ) is received with all required signatures in the Human Resources Office. If the Chief Human Resources Officer determines that the PRQ requires additional information or revision, the PRQ will be returned to the originator. The originator must return the PRQ to the Human Resources Office within 30 calendar days of the date it was returned to the employee in order for the effective date to be the initial date the signed and completed PRQ was received in the Human Resources Office. The Personnel Commission, however, retains the discretion to establish an effective date for reclassification of a position other than prescribed by the time lines when equity and the good of the service require them to do so.

³4804.3 Effects of Reclassification

The Personnel Commission shall determine a status of employees affected by position reclassifications in accordance with the following procedures:

- a. When all of the positions in a class are reclassified to a higher class, the incumbents of the positions who have been in the class for two or more years may be reclassified with their positions without examination.

An incumbent of a position for less than two years must secure status in the higher class by passing a qualifying examination unless the examination taken to qualify for the current appointment encompassed the higher class in duties, responsibilities or qualifications, in which event status may be granted without further examination.

- b. When a portion of the positions within a class are reclassified to a higher class, an incumbent who has a continuous employment record of two or more years in one or more of the positions being reclassified may be reclassified with the position without examination. An incumbent of the reclassified position for less than two years must secure status by a qualifying examination unless his/her present class or the examination taken to qualify for the present appointment encompassed the higher class

in duties, responsibilities or qualifications, in which event status may be granted without further examination.

- c. A qualifying examination under this rule is defined as one in which only incumbents of reclassified positions may compete. They must meet the minimum qualifications, and the examination is rated as "passing" or "not passing," rather than relatively. The Commission shall determine those instances when equity and the good of the service require the holding of such examinations.
- d. The basis for reclassification of the position must be a gradual accretion of duties and not a sudden change occasioned by a reorganization or the assignment of completely new duties and responsibilities. Determination of the basis for reclassification will be made by the Commission.
- e. Employees who have been reclassified with their position shall be ineligible for subsequent reclassification with their position for period of at least two years from the initial action.
- f. In the event of reclassification of a position to a lower class, the incumbent of such reclassified position may be transferred to another position in the present class if such position is available anywhere in the classified service. If such position is not available, the incumbent may accept the reclassified position or request that his/her name be placed on the reemployment list for the previous class or for comparable or lower classes in accordance with length of service.
- g. Incumbents of positions reclassified to a class of the same level shall be granted status in the new class without further examination.

²**4804.4 Career Ladder Reclassifications**

- a. Employees serving in classifications designated by the Commission as Career Ladder classes may be reclassified to the next higher level of the series after completing the required amount of time, education, and/or training as specified in the job description for the higher class.
- b. Employees may be required to pass a qualifying examination for any increased skills and/or responsibilities required for the higher class. Following verification of employee's qualifications the effective date of the reclassification shall be established by the Commission.

¹Amended August 15, 1995; December 7, 2000; December 11, 2001.

²Amended September 20, 1979.

³Amended October 18, 2007.

LEGAL REFERENCE: California Education Code

45285. Reclassification

SECTION 4805

ADMINISTRATION OF SALARY SCHEDULE AND COMPENSATION

⁹4805.1 Salary on Employment

- a. Appointment to any position in any class shall be made at the minimum rate and advancement to rates greater than the minimum rate shall be by successive steps in the salary range for the class. In the case of recruitment difficulties, desired appointments of individuals with unusually high qualifications, and/or the current salary of the desired appointee is higher than the first step of the salary schedule, upon recommendation of the Superintendent, the Commission may authorize an accelerated salary schedule movement for the classification.

Individuals appointed under the provision of "Restricted Class" shall be made at the minimum rate as established by the special project.

- ¹b. Any permanent employee who has resigned in good standing, and who is reemployed within 39 months on a full-time or part-time basis in the same class or a related class in the same salary range or in a lower salary range, shall be paid in the appropriate salary range on which he/she was paid at the time of resignation.

⁸4805.2 Anniversary Dates

- a. Employees shall have an annual anniversary date which shall be determined as hereinafter provided.
- b. New employees will become permanent employees after successful completion of their probationary period. The completion date of probationary status is 130 days or 6 months, whichever is longer. Salary step movement and permanency will be granted the day following completion of the probationary period. Anniversary date will be thereafter in accordance with 4805.2 (c).
- c. When the first day of permanency occurs on the 1st through the 15th of the month, the anniversary date is the 1st of the month; if the first day of permanency is the 16th through the end of the month, the anniversary date is the 1st of the following month. The original employment date shall be used for the purpose of establishing vacation allocation.
- d. Employees who are promoted are probationary in the new position for six (6) months and a new anniversary date is established on date of probationary completion in the same manner as when initially hired.

4805.3 Effect of Leaves of Absence on Anniversary Date

- a. Upon return from leave of absence without pay for 22 work days or more, salary advancement shall be delayed until the required service has been completed and the employee's anniversary date shall be changed correspondingly.
- b. Anniversary dates shall remain unchanged and credit for salary advancement shall accrue during any paid absence, out-of-class assignment, leaves of absence for industrial accident or illness, military service and unpaid absences of less than 22 work days.

⁹**4805.4 Step Advancement Within Salary Ranges**

Upon initial employment, employees are placed on Step 1 of the appropriate salary schedule and move to Step 2 after successful completion of the six-month probationary period; Step 3 after one year of service from date of completion of probationary period; and move a step yearly thereafter until the attainment of the final step. In the case of recruitment difficulties, desired appointments of individuals with unusually high qualifications, and/or the current salary of the desired appointee is higher than the first step of the salary schedule, upon recommendation of the Superintendent, the Commission may authorize an accelerated salary schedule movement for the classification.

²**4805.5 Salary on Promotion**

Persons who are promoted to a higher paid classification shall be placed on the salary schedule for the new class at the first step or at the step of the schedule which will provide an increase of not less than five percent (5%).

The promoted employee is probationary in the new position for six (6) months and will advance one (1) step upon completion of the probationary period. Thereafter, the employee will advance one (1) step on a yearly basis on the anniversary date of the completion of the probationary status.

4805.6 Salary on Demotion

Whenever employees are granted a voluntary demotion to a class having a lower salary range, their salary shall be that step in the new range which provides equal or, in absence thereof, the nearest lower salary to that which they received prior to the demotion.

4805.7 Salary on Transfer

Whenever an employee is transferred to a position with the same classification, the employee shall retain the same salary and the same anniversary date.

³**4805.8 Reclassification Study**

Whenever a reclassification and/or salary study results in the recommendation of a new salary schedule, the date and method of implementation of the new schedule shall be determined through the negotiation or meet and confer process.

⁴**4805.9 Salary Step on Reclassification**

An employee who is advanced to a higher pay range through reclassification shall be compensated at the first step of the new range or at the step which will grant him/her an increase of not less than five (5) percent. A new salary anniversary date is established as of the effective date assigned by the Personnel Commission.

⁵ **4805.10 Career Ladder Advancement**

Incumbents of Career Ladder classifications may be advanced to the next level of the series upon verification of achieving the qualifications for the next higher classification.

a. Salary Step

Employees advanced to the next level classification shall be compensated at the first step of the new range or at the step which will grant them an increase of not less than five percent (5%).

b. Anniversary Date

The date of advancement to the next level in the career ladder series shall become the new anniversary date for annual salary adjustments on the new range.

4805.11 Manner of Payment of Salaries

All employees shall be paid once per month on the last working day of the month.

⁶ **4805.12 Salary for Substitute, Provisional and Limited Term Employees**

Substitute, provisional and limited term employees shall be paid at the hourly rate of Step 1 of the schedule for the appropriate classification and shall not be eligible for fringe benefits or salary advancement, nor shall the assignment be credited toward probationary services in the classification.

Former classified employees who are reemployed as temporary employees in their former or related class may be placed on the salary schedule commensurate with their former employment and shall not be eligible for fringe benefits.

Note: Retirees – See 4809.15 Employment of Retired Members of the Public Employees Retirement System

⁷ **4805.13 Recommendations**

The Commission shall contract for a complete classification and salary study periodically, when deemed mutually beneficial to the County Superintendent and the Commission. The Superintendent may approve, amend or reject the Personnel Commission's recommendations resulting from such study.

No amendment shall be adopted unless the Commission is first given a reasonable opportunity to make a written statement of the effect the amendment will have upon the principle of like pay for like service.

No changes shall operate to disturb the relationship which compensation schedules bear to one another as the relationship has been established in the classification made by the Commission.

¹⁰ **4805.14 Special Assignment Stipend for Classified Employees**

At the discretion of a Division Chief or Department Director, a classified employee may be offered and may agree on a temporary basis to take on special assignments not contained in the employee's current job classification.

When an employee is assigned to perform all or a majority of the functions and duties of a higher classification, the employee shall qualify for an Out of Class assignment under PC Rule 4803.5.

When an employee is assigned by the appropriate Division Chief or Department Director to perform special project work functions or additional duties over and above their regularly assigned duties, the employee may receive a monthly Special Assignment Stipend.

The following procedures shall apply to the awarding of a Special Assignment Stipend:

- a) These special assignment duties are to be made in writing using the Special Assignment Stipend Request Form, which includes the timeframe of the agreement and lists the specific nature of the duties to be performed.
- b) Additional duties are to be performed during the employee's normally assigned working hours. Duties requiring additional hours are subject to overtime pay.
- c) The stipend is paid on a month-to-month basis from the first day that the special assignment begins for the duration of the special assignment.
- d) The minimum amount of time that the agreed upon special assignment duties shall be performed is two weeks (10 work days) and shall not exceed six (6) months. Following the agreed upon period, extensions may be granted upon approval of the Personnel Commission.
- e) For CSEA Employees: The stipend shall be paid at a rate of three percent (3.0%) of the employee's current base monthly salary.
- f) For Classified Managers: The stipend shall be paid at a minimum rate of three percent (3.0%) of the employee's current monthly salary and may be negotiated at a higher rate with the approval of the appropriate Division Chief and Department Director and the employee.
- g) Stipends will be placed on the monthly Personnel Commission agenda for final approval.

¹Corrected July 26, 1988.

²Amended December 20, 1977; September 17, 1981.

³Amended December 23, 1986.

⁴Approved May 21, 1991; Amended January 18, 2001.

⁵Amended September 17, 1981.

⁶Amended January 28, 1986; Amended January 17, 2013.

⁷Amended September 17, 1981.

⁸Amended September 29, 1992.

⁹Amended January 18, 2001.

¹⁰Amended March 14, 2019.

LEGAL REFERENCE: California Education Code

45268 Salary Schedule for the Classified Service

45301 Probationary Period for Entry into Permanent Classified Service

SECTION 4806

EXAMINATION ANNOUNCEMENTS, APPLICANTS AND APPLICATIONS

4806.1 Announcements

The personnel director shall publicize examinations by appropriate means, including the posting on bulletin boards of announcements which state the class title, salary, nature of the work to be performed, required training and experience, when and where to file applications, and other pertinent information. All examinations must be announced at least fifteen (15) work days prior to the last date for filing applications.

4806.2 Disqualifications

The director may disqualify an applicant or a candidate or remove a name from the eligible list, or refuse to refer any person on an eligible list for employment for any of the following reasons:

- a. Failure to meet any of the requirements or qualifications established for the examination.
- b. Physical unfitness to perform the duties of the class.
- c. Evidence of addiction to the use of narcotics or to the excessive use of intoxicating liquors.
- d. Conviction of or pleading guilty in Court to a charge of any narcotics offense, sex offense, or mistreatment of children.
- e. False statement of material fact of actual or attempted deception, fraud, or misconduct in connection with an application or examination.
- f. Record of dismissal from public or private employment for any of the above causes, or resignation to avoid such dismissal.

4806.3 Notice of Rejection

Whenever an application is rejected, written notice shall be given to the applicant stating the reason for the rejection.

4806.4 Fingerprinting

Applicants will be fingerprinted prior to employment.

4806.5 Physical Fitness

An applicant may be required to submit a statement from a licensed physician that the applicant is free from disqualifying disease or physical defects and meets established physical standards, or the applicant may be referred to a special medical examiner. If the applicant is required to submit a physician's statement concerning his/her health, the County Office of Education shall assume costs that are incurred by the applicant.

¹Corrected January 2001.

LEGAL REFERENCE: California Education Code

- 44009. Conviction of Specified Crimes
- 44010. Sex Offense
- 44011. "Narcotics Offense" Defined
- 45123. Employment After Conviction of Sex Offense or Controlled Substance Offense, Rehabilitated
Controlled Substance Offender
- 45124. Employment of Sexual Psychopath
- 45125. Fingerprint Cards; Criminal History; Confidentiality

SECTION 4807

EXAMINATIONS

4807.1 Types of Examinations

In establishing eligible lists for classes in the classified service, promotional, open or continuous examinations may be authorized by the Commission. Both promotional and open examinations may be given concurrently.

¹a. Promotional Examination

Candidates for promotional examinations must hold permanent status in the classified service and must meet the minimum employment qualifications for the examination.

⁵b. Open Examination

Any person meeting the requirements of the examination announcement may apply for an open examination. Classified permanent employees who attain a passing score shall have five (5) points added to their score.

c. Continuous Examination

Continuous open examinations for a given class 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 eligible list shall be maintained to which the names of qualifying candidates shall be added in order of final grades and from which names may be removed after one year.

⁶d. Admission to Examination

Each applicant whose application has been received in the Human Resources Office, shall be given reasonable written notice in advance of the time, date and place of the examination(s). When a classification requires a written examination, all applicants must attend and pass the written examination. Applications will then be screened, based on established minimum qualifications. The top applicants, depending on the level and depth of experience, will be notified of the date, time, and place of the oral examination.

²4807.2 Types of Tests

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

a. Written

Written tests may be used to measure knowledge, abilities, judgments, aptitudes, or alertness, insofar as such traits are related to ability to perform the work in a class.

b. Oral

Each oral examination panel shall include at least two members. When an oral examination panel is directed to evaluate technical knowledge and skills, at least two members shall be technically qualified in the specified occupational area. Members of the Board of Education, the Commission and first or second level supervisors over the vacant position in the class for which the examination is held, shall not serve on the oral examination panel. All oral examinations shall be electronically recorded. Confidential references and scores on other parts of the examinations shall not be made available to the panelists.

c. Performance

Performance tests may be used to evaluate the facility, speed, or accuracy with which typical tasks of the class are performed.

d. Training and Experience

Evaluation may be made on the relevance level, recency, progression and quality of education and experience offered by candidates, which may be done in an oral interview or by a review of written statements by candidates.

e. Medical

An examination by a licensed physician may be required before or after appointment. The Commission may establish physical or medical standards for any class which shall be stated on the examination announcement. Failure of candidates to achieve the minimum standard will disqualify them.

4807.3 Scheduling

The director shall schedule examinations as the current and anticipated needs of the service require. Scheduled examinations may be postponed or cancelled or the final date for filing applications extended by the director by notifying all persons directly affected and posting on official bulletin boards.

4807.4 Test Administration

The personnel director shall be responsible for administering and scoring tests.

a. Assistance

As needed, the director may appoint special examiners for any phase of the testing process. Special examiners may be paid reasonable expenses and/or daily fees in accordance with budgetary provisions and at such rates as may be approved by the Personnel Commission. All test related documents shall be considered confidential.

b. Disqualification

The director may disqualify any candidate who attempts to interfere with the fair, equitable and orderly conduct of any part of the competitive examination process. Tardiness may be grounds for disqualification in the examination. Failure in one test of the examination shall be grounds for failure in the entire examination.

c. Qualifying Grades and Rating Tests

The final score of a candidate shall be based upon all tests and evaluations in the examination, according to the weights for each case established by the Commission. The director shall set minimum qualifying ratings for each phase.

of the examination and shall provide that all competitors failing to achieve such ratings in any phase shall be disqualified from any further participation in the examination.

d. Oral Panel Appraisal

In the oral panel appraisal interview, ratings shall be expressed in percentages. The ratings of the members of the panel shall be averaged.

³e. Scoring

The final scores of candidates shall be rounded to the nearest whole percent for all eligibles. All eligibles with the same percentage score will be considered as having the same rank. Appointments shall be made from the eligibles having the first three ranks on the list.

⁴f. Employee Preference

All permanent employees of the County Office of Education who attain a passing score on an open-competitive examination shall have five (5) points added to their final score.

g. Veteran's Preference

Upon attaining a passing score on all entrance examinations, veterans with thirty (30) days or more of service who have submitted proper documentation to the personnel director shall be given credit of five (5) points; veterans declared to be ten percent (10%) or more disabled as a result of service in the armed forces shall be given credit of ten (10) points. Proof of disability shall be conclusive if it is on record in the United States Veterans Administration.

h. Notification

As soon as the rating of an examination has been completed and the eligibility list established, all competitors shall be notified by mail of the results of the examination and a copy of the list shall be filed in the Human Resources Office and shall be accessible to employees and the public upon request.

i. Review of Test Materials

Examination records, including any recordings and the rating sheet of each member of the oral panel for each candidate, shall be retained by the Commission for not less than ninety (90) days after establishment of the eligibility list. The examiner's records shall be considered confidential and shall not be made available to supervisors or to the public or to any person for any purpose not directly connected with the examination.

If a competitor believes an error has occurred or any illegal or unfair questions have been asked, an appeal may be submitted to the Commission in writing no later than ten (10) days after establishment of the eligibility list. The appeal must state the specific reason for requesting corrective action. The examination records may then be made available to the candidate and may also be made available to the candidate's representative only upon written consent of the candidate.

The Commission may order adjustment of the rating and the eligible list if it finds justification for the protest. Correction shall not, however, affect certifications or appointments already made from the eligible list.

¹Amended July 16, 1986.

²Amended February 6, 1980;

³Amended February 25, 1982.

⁴Amended December 14, 1978; July 16, 1986; January 20, 2000

⁵Amended July 16, 1986; January 20, 2000

⁶Amended December 14, 2006

LEGAL REFERENCE: California Education Code

- 45272. Vacancies in Classified Service; Promotional Applicants
- 45273. Examinations; Examination Boards; Membership Recordings
- 45274. Retention and Availability of Examination
- 45291. Combinations of Successive Eligibility Lists
- 45292. Right to Provide Continuous Examinations
- 45296. Additional Credits for Veteran's Entrance Examinations

SECTION 4808

ELIGIBLE LIST

4808.1 Preparation

As soon as possible after the conclusion of an examination, the personnel director shall prepare an eligible list consisting of the names of persons successfully passing the examination. The names shall be arranged in order of final ratings received, from the highest score down to the lowest qualifying score. The final rating shall be determined by the total of the scores received by each candidate for each part of the examination, based upon the relative value assigned to each part of the examination before it was given. Whenever identical final ratings are received, names shall be arranged in the orders of the scores on the part or parts of the examination which were assigned the heaviest relative values.

4808.2 Life of Eligible Lists

Unless an appeal is received in connection with an examination, eligible lists shall become effective upon the certification by the personnel director that the list was legally prepared and represents the relative ratings of the names appearing thereon.

Eligible lists shall remain in effect for one year with the following exceptions:

- (1) the examination announcement states that the list shall be in effect for six (6) months, or
- (2) if there are insufficient candidates for appointment to current vacancies or for temporary assignments, the Commission may terminate the list before it has expired.

Combinations of successive eligibility lists may be made during their first year. Eligibles will be placed in order of their scores if the tests have been given under conditions and techniques sufficiently similar to preserve their competitive character. Remaining eligibles may file application for the rescheduled examination and their higher score shall determine their rank on the new list. Eligible lists may be extended by the Commission for an additional period of one year or less.

4808.3 Disqualification and Removal from List

Names of eligibles may be removed from an eligible list by the personnel director for any of the following:

- a. Inability to contact the eligible within a reasonable time.
- b. Conviction of a felony or misdemeanor involving a charge of any sex or narcotics offense or mistreatment of children.
- c. Proof of fraud or false statements in the application or proof of fraudulent conduct in connection with an examination.
- d. Permanent appointment to a position in the class for which the eligible list was established.
- e. Certification to the same appointing authority three times without appointment. The appointing authority shall communicate his/her reasons for rejection to the personnel director and the employee so rejected may request a hearing by the Commission to determine the sufficiency of the reasons given. The Commission may order the eligible restored to the eligible list.
- f. Upon request, death, or upon resignation from the service of an eligible on a promotional eligible list.

- g. Failure to appear or to arrange for an interview with an appointing authority within a reasonable time after notification or certification or failure to appear for work after appointment.
- h. Declination of an appointment without reason satisfactory to the personnel director.

4808.4 Waiver of Certification

An eligible may waive certification upon giving satisfactory reason in writing to the personnel director. Such name shall not be certified until the waiver has expired or has been withdrawn. An eligible may waive certification for temporary appointment or the particular location or section to which he/she wishes to be certified. After three (3) waivers, the candidate shall be removed from the eligible list.

4808.5 Restoration of Names to Eligible Lists

Names which have been removed from eligible lists may be restored by the personnel director for the duration of the list for the following reasons:

- a. Acceptance of the reason for waiver of certification which had previously been rejected.
- b. Acceptance of the reason for nonappearance for interview after certification.
- c. Upon request of an employee who resigned during a probationary period, if without fault or delinquency on his/her part.

¹Amended December, 1978.

LEGAL REFERENCE: California Education Code

- 45272. Vacancies in Classified Service
- 45291. Combination of Successive Eligible Lists
- 45300. Duration of Eligible Lists
- Amendment of 45300 - 1/1/78

SECTION 4809

METHOD OF FILLING VACANCIES

4809.1 Type of Appointment

All vacancies in the classified service shall be filled by transfer, reemployment, demotion or from eligibles certified from an appropriate eligible list by the personnel director. In the absence of persons eligible for appointment in this way, provisional appointments may be permitted in accordance with these rules. With the exception of emergency appointments, all original appointments may be considered tentative pending verification of fingerprinting and a tine test or chest x-ray within ten (10) days.

4809.2 Request for Certification

Whenever a position is to be filled, the appointing authority shall notify the personnel director in advance of the date of the anticipated need and make written request for certification on forms prescribed by the personnel director stating the duties, salary, work schedule and location of the position.

4809.3 Notice of Vacancies

Notices of vacancies, transfer opportunities, examinations and other notices affecting the selection of assignments shall be posted at all work locations. Employees who are not on duty during school recesses or on leaves of absence may request notification of vacancies by mail.

4809.4 Order of Certification

Names of persons who are available to accept the conditions of employment specified shall be certified for appointment from the following employment lists for the classification.

- a. Transfer Lists
- b. Layoff List of persons laid off or demoted because of lack of work or lack of funds. (One name)
- c. Reemployment List of persons requesting reemployment in the classification within thirty-nine (39) months after resignation.
- d. Open-Competitive or Promotional Eligibility List—Appointment shall be made from the first three available candidates on the eligibility list.

¹4809.5 Method of Certification

- a. All eligibles having the first three ranks on the list who are ready and willing to accept the position shall be certified for each vacancy. The section with the current vacancy may appoint any one of these candidates. The eligibles not selected shall have their names returned to the eligible list and will be certified along with the candidates having the next highest rank on the eligible list for the next vacancy.

- b. The person or persons designated to recommend the final selection shall interview all eligibles certified and shall notify the personnel director of the recommendation within fifteen work days following receipt of the certification list. If, for any reason, the certification list is NOT utilized, or if the candidates fail to respond, the personnel director must be notified within five (5) work days following receipt of the certification list.
- c. Appointment may be made from other than the first three candidates when the ability to speak, read, or write a language in addition to English or a valid driver's license is a requirement for the position. The three candidates possessing the requirement shall be certified in the order of their relative place on the list. If less than three (3) persons meet the requirement, the top eligible(s) shall be certified plus those possessing the requirement, provided that the total number certified not exceed three (3).
- d. If there is no eligibility list for the class in which a vacancy occurs, certification may be made from a list for another class at the same or higher salary level if the duties and qualifications of the class for which the examination was given included substantially all of the duties of the position to be filled, provided that the Commission determines that the use of the list is in the best interest of the Office of Education.
- e. When fewer than three (3) eligibles are available for certification, the available eligibles shall be certified. However, the appointing authority may request that a new examination be given.

4809.6 Appointment

After interview and any investigation desired, the Superintendent shall make appointments from among those certified and shall immediately notify the personnel director of the person or persons appointed. If the eligible fails to report for duty at the time and place agreed upon, he/she shall be deemed to have declined the appointment. The Superintendent shall have the choice of three (3) persons in filling any vacancy. If less than three (3) persons are available, a regular appointment may be made among those available or a provisional appointment may be made in accordance with Rule 4809.

4809.7 Provisional Appointments

If no regular appointment is made and less than three (3) persons are available for appointment from the lists specified in 4809.4, with the approval of the personnel director, a provisional appointment may be made of a person meeting the employment standards for the class. If a provisional appointment is made, the personnel director shall immediately proceed to establish a list of persons qualified by testing and shall make certification from the resulting list to the Superintendent. The provisional appointment shall terminate within twenty (20) days after the eligible list is established.

4809.8 Limitation on Provisional Appointments

The Commission hereby declares it to be in the interests of the Office of Education service that provisional appointments shall be held to a minimum and that highest priority shall be given by the personnel director to establish eligible lists in classes in which such appointments have been made. It shall be the Commission's policy that provisional appointments be permitted to run no longer than ninety (90) days. Time spent on a provisional appointment shall not constitute a part of the probationary period.

4809.9 Limited Term Appointments

Appointment to a position not to exceed one day less than six (6) months, or in the case of an appointment as a substitute for an absent employee, shall not exceed the authorized absence of the employee. Time spent on limited term appointments shall not constitute part of the probationary period. Appointments shall be made from appropriate eligible lists

whenever possible. Acceptance or refusal of an eligible to serve in a limited term position shall not affect eligibility to a regular appointment.

4809.10 Emergency Appointments

To meet the immediate requirements of an emergency condition, the Superintendent may employ such persons as may be needed for the duration of the emergency without regard to these rules affecting appointments, except that no such appointees shall serve more than fifteen (15) work days. As soon as possible, such appointments shall be reported to the personnel director.

²4809.11 Reemployment

Permanent classified employees of the Alameda County Office of Education who voluntarily resign from the classified service may be reemployed within thirty-nine (39) months after their last day of paid service without further competitive examination, to a position in a former classification as a permanent employee or in a related lower class or a lower class in which the employee formerly had permanent status. The break in service shall be disregarded and previous status, benefits, and burdens of a permanent employee in the class shall be reinstated. Reemployment is not a right but is a privilege to be granted only upon recommendation of the Superintendent and approval of the Personnel Commission.

4809.12 Demotion

With the approval of the Superintendent and the Personnel Commission, any employee may request a voluntary demotion to a vacant position. After investigation, such demotion may be approved by the personnel director. If the class to which the demotion is proposed required employment standards including knowledge or abilities not measured by the examination for the class from which demotion is proposed, the Personnel Commission may authorize the personnel director to examine the employee for possession of these employment standards.

4809.13 Professional Expert Assignments

- a. Professional experts may be employed in positions which do not require certification qualifications on a temporary basis for a specific project and shall be exempt from the classified service.
- b. 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.
- ⁴c. 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. Authorization for service as a professional expert shall not exceed six months.
- d. In addition to the exemptions authorized in Education Code Section 45256, there shall be exempt from the classified service positions established for the employment of community representatives in advisory or consulting capacities for not more than 90 working days in a fiscal year, provided that:
 1. the authorized duties are not those normally assigned to a class of positions in the classified service;

2. the authorized duties are approved by the Personnel Commission in advance of employment; and
3. a regular classified employee of the school district shall not receive a concurrent appointment to such a position.

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

³ **4809.14 Senior Management Positions**

a. Designation

The Superintendent may designate up to two (2) positions as senior management of the classified service. Employees who are so designated shall be part of the classified service but they shall not attain permanent status in senior management positions. Senior management positions may include (1) the fiscal advisor to the Superintendent and (2) the highest position that has county-wide responsibility for formulating policies, as determined by the Superintendent and the Board of Education.

b. Selection

Positions designated as Senior Management of the Classified Service shall be filled from an unranked alphabetical list of persons who have been determined by the Superintendent to meet the minimum qualifications specified by the Personnel Commission.

c. Seniority Rights

Senior management employees shall earn seniority in accordance with all other management positions as specified in Section 4813, Rule 4813.2 Computation of Seniority.

d. Reassignment and Termination

If a senior management position is abolished by resolution of the Superintendent, the employee shall become a member of the regular classified service in a position to which the employee would have been entitled prior to designation as senior management.

If an employee designated as senior management is not to be reelected for the following fiscal year, written notice shall be given the employee at least 45 days in advance of July 1 of the following year (May 1).

Should no notice be given as provided, the senior management employee shall be deemed reemployed for the following fiscal year.

⁵ **4809.15 Employment of Retired Members of the Public Employees Retirement System**

In accordance with PERS regulations, following the required 180-day waiting period from the date of retirement, a retiree may serve without loss of benefits provided by PERS during an emergency or because of a need for the retiree's skills. The service shall not exceed a total of 120 days or 960 hours in any calendar year. The retiree's rate of pay for such employment shall not be less than the minimum, nor exceed that paid to other employees performing comparable duties but shall not be eligible for fringe benefits.

For more information, exemptions, etc:

CalPERS webpage: <http://www.calpers.ca.gov/index.jsp?bc=/employer/program-services/pension-reform-impacts.xml>

³**4809.16 Nepotism**

This rule is intended to establish a minimum exclusion regarding supervisor/subordinate relationships. It is recognized that units within the County Office may adopt more restrictive regulations as appropriate to assure the orderly conduct of business.

- a. All managers responsible for assignment of employees shall avoid assignment of close relatives or cohabitants to work in situations where conflicts of interest could arise.
- b. "Close relative" is defined as spouse, brother, sister, parent, child or grandchild of the employee and of the spouse of the employee. "Cohabitants" is defined as persons living together.

¹Amended February 25, 1982.

²Corrected December 18, 1990.

³Approved November 22, 1988.

⁴Amended November 18, 1999.

⁵Amended January 17, 2013.

LEGAL REFERENCE: California Education Code

- 45256. Establishment of the Classified Service; Positions Exempted
- 45258. Positions Established for the Employment of Community Representatives
- 45272. Vacancies in Classified Service; Promotional Applicants
- 45277. Appointments from Eligibility Lists Where Another Language or Driver's License is Required
- 45286. Limited Term Employees
- 45287. Provisional Appointments
- 45290. Emergency Appointments
- 45100.5 Senior Management of the Classified Service
- 45104.2 Abolishment of Senior Management Position
- 45108.5 Senior Management Employee Defined
- 45256.5 Senior Management of the Classified Service
- 45108.7 Senior Management Waiver
- 35031. Employment of Superintendents, or Deputy, Associate, or Assistant Superintendents
- 45135. Employment of Retired Classified Employee

LEGAL REFERENCE: Government Code

- 21153. Employment of Retired Employees

SECTION 4810

PROBATIONARY PERIOD

4810.1 Objective of Probationary Period

The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing employees' work for securing the most effective adjustment of new employees to their position, and for releasing probationers whose performance does not meet the required standards of work.

4810.2 Appointments Subject to Probationary Period

All appointments from open or promotional eligible lists to a position in the classified service shall be for a probationary period of six months, or 130 days of paid service, whichever is longer, during which the department head shall observe and appraise the conduct, performance, attitude, adaptability and job knowledge of each employee and determine whether the employee is fully qualified for regular status.

4810.3 Reports of Probationers

The Superintendent shall file with the Human Resources Office employee performance appraisals on probationers as required by the personnel director. If the service of the probationers has been satisfactory, the Superintendent shall recommend retention. If release is not specifically recommended before the end of the probationary period, the probationer shall be considered to have acquired permanent status.

4810.4 Release of Probationer

Probationary employees whose dismissal is recommended by the immediate supervisor may request a hearing with the Section Director and/or the Superintendent. The decision of the Superintendent will be binding on the parties and the probationer shall have no further rights of appeal to the Personnel Commission. Written notice stating the reasons for the release shall be furnished the probationer by the Superintendent with a copy to the personnel director.

LEGAL REFERENCE: California Education Code

- 45270. Persons Deemed Under Probationary Classification
- 45301. Probationary Period for Entry Into Permanent Classified Service

SECTION 4811

HEALTH REVIEW PROCEDURES

4811.1 Purpose of Review

The objectives of these procedures are:

- a. To assist in establishing the physical fitness of applicants for employment by means of pre-employment physical examinations.
- b. To prevent employment of personnel whose physical limitations may constitute a hazard to themselves and their fellow employees and which may be a potential liability to the Department.
- c. To aid in determining continuing ability of employees to perform their duties without hazard to themselves or other employees, or to be a liability to the Department.

4811.2 General Employment Requirements

- a. All persons hired for positions which may require heavy physical labor, whether temporary or permanent, may be required to have a medical examination by a physician designated by the Superintendent prior to reporting to work.
- b. Persons hired for positions in the regular classified service may be required to have a medical examination by a physician designated by the Superintendent within 30 days after appointment.
- c. All employees, upon appointment, shall submit evidence of an examination within 10 days verifying absence of active tuberculosis. This examination must have been taken within 60 days preceding employment. Thereafter, an examination report must be submitted every four years.
- d. Employees absent for three consecutive working days or more may be required by the Section Director to present a doctor's release to return to work.
- e. Employees who have used all accumulated sick leave and other paid leaves of absence to which they are entitled shall submit a doctor's statement estimating the time required for recovery, prior to entitlement to extended illness leave and monthly thereafter until released to return to work.

4811.3 Emergency Procedures

a. Emergency Information

At the time of employment, an emergency information form will be completed in the Human Resources Office. The Human Resources Office will forward a copy of the emergency information form to the employee's work site. The employee shall be responsible for updating his/her emergency information form as necessary. No later than October 1 of each year, the personnel director shall require each employee to update his/her emergency information.

b. Accident or Serious Illness

In case of an accident or serious illness, instructions on the emergency card will be followed.

4811.4 Health Review

PRIOR TO TAKING ANY OF THE FOLLOWING ACTION, THE SECTION DIRECTOR SHALL OBTAIN A SIGNED STATEMENT VERIFYING THAT THE EMPLOYEE HAS BEEN INFORMED OF HIS/HER RIGHTS TO REPRESENTATION AND OF THE NATURE OF THE PROBLEM.

- a. Whenever a Section Director suspects that a disability may be preventing an employee from satisfactory job performance, the employee may be required to submit to an examination by a physician designated by the Superintendent. If the employee's physical limitations are suspected to constitute an immediate hazard to the employee or to the Office of Education, the Section Director/Superintendent may place the employee on paid leave of absence pending review of the physician's report.
- b. The examination to evaluate the employee's capacity to perform the duties of the position and subsequent examinations recommended by a physician designated by the Superintendent shall be scheduled during the employee's regular work schedule, and all necessary costs incurred by the employee shall be paid by the Office of Education.
- c. The employee may submit any other pertinent medical evidence to the physician designated by the Superintendent or to the Superintendent.

4811.5 Determination of Temporary Disability

When the Superintendent, after considering the conclusions of the medical examination and other pertinent information, concludes that the employee is unable to perform the work of the present position, he may take any of the following actions. The employee shall be informed of his/her right to representation and right of appeal to the Superintendent before action is taken. The Superintendent may:

- a. place the employee on any sick leave benefits to which he/she is eligible until released for duty by a physician designated by the Superintendent; or,
- b. assign the employee to light work involving duties which the employee is capable of performing for not more than sixty (60) days; or,
- c. assign the employee to another position on a regular basis if disability will extend beyond sixty (60) days. The position shall be properly classified by the Commission; or,
- d. grant the employee an unpaid leave of absence not to exceed six (6) months, which may be renewed for no more than two additional six-month periods. Such leave or leaves shall not be considered a break in service and upon verification of ability to work, the employee shall be assigned to a position within the classification with all rights, benefits, and burdens of a permanent employee; or,
- e. accept a resignation in good standing with reemployment rights for thirty-nine (39) months. At any time with thirty-nine (39) months that the employee is able to verify ability to return to work, his/her name shall be placed on the reemployment list for the classification in accordance with seniority as if laid off for lack of work or lack of funds and shall regain permanent status when rehired.

4811.6 Permanent Disability

When the Superintendent, after considering the conclusions of the medical examination or medical reports from the employee's physician and other pertinent information, concludes that the employee is unable to perform the work of the present position or any position in the Office of Education, the Superintendent may place the employee on sick leave or other leave of absence and take the following action:

- a. Recommend that the employee take VOLUNTARY DISABILITY RETIREMENT. If the employee elects to accept disability retirement, the following documents shall be submitted to Public Employees' Retirement System.
 1. Application for Retirement, Form PERS-BEN-369 (Payroll Department).
 2. A written statement describing the disability and how it prevents the employee from performing the duties of the position.
 3. Classification Specification describing the employee's current duties.
 4. Medical forms provided by Public Employee's Retirement System completed by the employee's personal physician.
- b. If the employee elects not to accept disability retirement, the Superintendent shall notify the employee of his intent to file for INVOLUNTARY DISABILITY RETIREMENT of the employee. The employee and/or the employee's representative may request a hearing with the Superintendent before action is taken. If the Superintendent determines that the action will be taken, he shall submit the following documents to the Public Employees' Retirement System.
 1. Application for Retirement, Form PERS-BEN-369, without the employee's signature.
 2. A written statement telling why the Office of Education believes the employee's disability prevents him/her from performing the duties of the position and reasons the Office of Education is unable to assign the employee to another classification.
 3. Classification specification describing employee's current duties. Public Employee's Retirement System will schedule a physical examination for the employee with a State Physician and determination will be made by that agency as to the acceptability of reasons for retirement.
- ¹c. If the permanent disability is due to an injury or illness which arises out of employment or in the course of employment, the disabled employee shall be entitled to all workers' compensation benefits which may be applicable. This includes temporary disability benefits, permanent disability benefits, and vocational rehabilitation benefits for which the employee may be eligible.

¹Amended September 20, 1979.

LEGAL REFERENCE: California Education Code

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| 45122. | Physical Examinations |
| 45195. | Probationary Additional Leave for nonindustrial Accident or Illness, Reemployment Preference |
| 45309. | Reinstatement of Permanent Employees after Resignation |

LEGAL REFERENCE: Government Code

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|--------|-------------------------|
| 21101. | Reinstatement Procedure |
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LEGAL REFERENCE: California Labor Code

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| 1420. | Unlawful Employment Practices Specified |
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SECTION 4812

RESIGNATION AND SEPARATION

4812.1 Resignations

a. Resignations in Good Standing

In order to resign in good standing, an employee shall give notice in writing of his/her resignation to the Superintendent, with copies to the Section Director and to the personnel director not less than two weeks prior thereto, unless the Superintendent consents to shorter notice.

b. Resignation Without Notice

An employee who is absent from duty for five (5) consecutive working days without obtaining approval from the Superintendent may be separated as having resigned without notice.

4812.2 Separation

The Superintendent may separate any employee in accordance with these Rules. All separations shall be promptly reported to the personnel director, citing the reason(s) for such action.

¹SECTION 4813

LAYOFF

4813.1 Definition

Layoff is separation from a permanent or probationary position or reduction in assigned hours, days, or work year due to lack of work or lack of funds.

4813.2 Computation of Seniority

Seniority prior to July 1, 1971 shall be based on the initial date of hire as a probationary employee in the class plus higher classes and that time period shall be converted to hours on the basis of 162.5 average hours of service per month.

Seniority after July 1, 1971 shall be based on hours of paid service in the classification plus higher classes and shall include actual service, paid holidays, vacation, and all leaves with pay. Computation of seniority shall not include service performed prior to entering probationary status, nor shall it include hours compensated for on an overtime basis.

Employees who work in out-of-class assignments shall retain seniority in their probationary or permanent classification and will not accrue seniority in the temporary classification.

4813.3 Seniority Lists

Employees shall be placed on the seniority list in two sections:

- a. Section A: Each employee shall be listed by name; every job title held (current position first), dates for each, hours in paid status in each class plus higher classes.
- b. Section B: Seniority lists for each class listing all employees who have earned seniority in that class, placed in order of highest number of hours in paid status in the class plus higher classes. Incumbent in positions in the class shall be designated. Tie placement on these lists shall be broken by using the earliest date of hire in any classification, next by substitute service, next by placement on the eligibility list, or finally by lot.

Seniority lists shall be updated as necessary not less than once each year, posted, delivered to Classified employee organizations and attached to the Layoff Notices to affected employees.

²4813.4 Procedure

- a. Employees in positions designated by the Superintendent to be abolished due to lack of work or lack of funds shall be given not less than sixty (60) days prior notice by personal service or certified mail. Such notice shall include the following information:
 1. Effective date
 2. Reason for layoff
 3. Positions in the classification being eliminated
 4. Options in lieu of layoff, if any
 5. Reemployment rights
 6. Seniority list for the classification/s affected.
- b. Employees who have been employed the shortest time in the class, plus higher classes, shall be laid off first. Employees affected by displacement due to seniority may exercise bumping rights in an equal or lower class in which they hold seniority credit greater than that of the least senior incumbent. Displaced employees shall receive not less than sixty

(60) days prior notice by personal service or certified mail. Such notice shall include the following information:

1. Effective date
 2. Reason for layoff
 3. Positions in the classification being eliminated
 4. Options in lieu of layoff, if any
 5. Reemployment rights
 6. Seniority list for the classification(s) affected.
- c. An employee whose position is to be reduced in assigned hours, days, or work year, shall be given the same rights as an employee whose position has been abolished.
- d. The names of permanent and probationary employees laid off or who accept a reduction in assigned time shall be placed on the layoff reemployment list for their classification for a period of thirty-nine (39) months. The reemployment list for a class shall be used before any other employment lists after transfers to vacancies which occur in the class.
- e. Any layoff notice shall be rescinded by the Superintendent and the employee notified in writing when circumstances no longer warrant the action.

Any employee who is improperly laid off shall be reemployed immediately upon discovery of the error and shall be reimbursed for all loss of salary and benefits.

4813.5 Removal of Name

Failure to respond to written notice within ten (10) working days or failure to accept two offers of reemployment within the same classification shall be cause for removal of name from the layoff reemployment lists.

4813.6 Rights in Lieu of Layoff

Upon approval of the Personnel Commission, employees may elect the following options on the basis of their seniority:

- a. Employees may transfer or demote to a vacant position in an equal or next lower classification in which they previously served in probationary or permanent status.
- b. In the absence of a vacant position in the former classification, the employee may exercise bumping rights in an equal or the next lower classification in which they have seniority credit greater than that of the least senior incumbent in the classification.
- c. Employees unable or unwilling to exercise the rights to transfer or demote to a classification in which they previously served may request assignment to a vacant position in a related equal or lower classification for which the Commission determines they are qualified.
- d. Eligible employees may elect service retirement in lieu of layoff through the Public Employees' Retirement System. If the employee subsequently accepts reemployment in an appropriate vacancy, the vacant position shall be held until the Public Employees' Retirement System has processed the employee's request to return to work.

4813.7 Reemployment

- a. Employees who have been laid off shall be eligible for reemployment for a period of thirty-nine (39) months.
- b. Employees who accept voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall have reemployment rights for a period of sixty-three (63) months provided that tests of fitness under which they qualified for appointment to the classification still apply.

- c. Employees are eligible to participate in promotional examinations during the specified period of reemployment rights, and to have five (5) points added to their final passing score on open-competitive examinations.

4813.8 Restricted Positions

- a. Employees serving in restricted positions are subject to layoff in accordance with the availability of funds with which their positions were created and shall be given thirty (30) days notice of layoff.
- b. Seniority credit shall be granted to employees serving in restricted positions only after six (6) months of satisfactory service and after passing of the examination required for the class.

4813.9 Limited Term Employees

No regular employees shall be laid off while employees serving in emergency, provisional or limited term positions are retained in the same class unless regular employees decline the temporary assignment.

¹Amended May 21, 1984.

²Amended October 18, 2007; January 17, 2013.

LEGAL REFERENCE: California Education Code

- 45105. Positions under various acts not requiring certification qualifications.
- 45115. Layoff: Reinstatement from Service Retirement
- 45117. Notice of layoff due to expiration of specially funded program
- 45286. Limited Term Employees
- 45298. Reemployment and promotional examination preference of persons laid off voluntary demotions or reductions in time
- 45308. Order of layoff and reemployment; length of service

SECTION 4814

CONFLICT RESOLUTION

The purpose of this policy is to secure, at the immediate level, equitable solutions to conflicts which may arise outside the scope of, or in the absence of, any Agreement between the County Superintendent and any employee organization.

For the purpose of this policy, "conflict" means a difference of opinion between employee and a supervisor regarding the interpretation or application of a policy, rule, or regulation of the employer.

All parties agree that these proceedings will be kept as informal and confidential as may be appropriate at any level of the procedure.

4814.1 Informal Step

Within ten (10) work days of the time an employee knew or reasonably should have known of the conflict, the employee will meet and discuss the conflict with his/her immediate supervisor.

4814.2 Step One

- a. Within five (5) work days of meeting with the immediate supervisor, if the conflict is not resolved, the employee shall state in writing specific conflict, sign it, and submit it to the supervisor.
- b. The Statement of Conflict shall name the employee involved, shall state the contention of the employee, and shall describe the relief requested.
- c. Within five (5) work days, after receipt of the Conflict Statement, the immediate supervisor shall respond in writing to the employee and the Association representative, if any.

4814.3 Step Two

- a. If the conflict is not resolved in Step One, the employee may, within ten (10) work days of receipt of the supervisor's response at Step One, submit to the Superintendent a written Statement of Conflict signed by the employee. At that time, a copy shall be submitted to the supervisor involved.
- b. The Superintendent or his/her designated representative shall give the employee and the Association representative, if any, a response in writing no later than ten (10) work days after receipt of the written Statement of Conflict. If further investigation is needed, additional time may be allowed by mutual agreement of the Superintendent and the employee.
- c. The decision of the Commission will be submitted in writing to the employee and the Association representative, if any. If the Commission's decision contains a recommendation for a financial award or results in any financial impact to the Superintendent of Schools, the decision shall be advisory only.

4814.4 Step Three

- a. If the conflict is not resolved at Step Two, the employee may, within ten (10) work days of receipt of the Superintendent's response at Step Two, submit to the Commission a written statement and a request for a hearing. At that time, a copy shall be submitted to the Superintendent.
- b. The Commission shall hear the employee and the Association representative, if any, within twenty (20) work days after receipt of the written statement. If further investigation is needed, additional time may be allowed by mutual agreement of the personnel director and the employee.
- c. The decision of the Commission will be submitted in writing to the employee and the Association representative, if any. If the Commission's decision contains a recommendation for a financial award or results in any financial impact to the Superintendent of Schools, the decision shall be advisory only.

SECTION 4815

DISCIPLINARY ACTION AND APPEAL

4815.1 Definitions

- a. Suspension is the enforced absence of an employee not to exceed thirty (30) days for disciplinary purposes pending investigation of charges made against the employee.
- b. Demotion is the assignment of an employee from a position in one class to a position in another class that is allocated to a lower salary range.
- c. Dismissal is the permanent removal of an employee from the classified service of the Office of the County Superintendent for cause.

4815.2 Causes for Suspension, Demotion and Dismissal

Persons employed in the classified service shall be subject to disciplinary action for any of the following causes, or for other reasonable causes:

- a. Incompetency, inefficiency, insubordination, dishonesty, inattention to or dereliction of duty, discourteous treatment of the public or of fellow employees, or any other willful failure of good conduct tending to injure the public service, or any willful and persistent violation of the provisions of the Education Code or of rules, regulations, or procedures adopted by the Board of Education or the Commission pursuant to it; provided that specific instances must be set forth as to any of the causes enumerated under this heading.
- b. Being under the influence of alcohol or narcotics during assigned hours of employment.
- c. Political activities engaged in by an employee during assigned hours of employment.
- d. Conviction of a serious crime by a court of law; a record of one or more convictions which indicates that the person is a poor employment risk; failure to disclose material facts regarding criminal records; and other false or misleading information on application forms or examination and employment records concerning material matters.
- e. A plea of guilty or a finding of guilt by a court of any sex offense defined in Sections 44009 and 44010 of the Education Code or narcotics offense defined in Section 44011 of the Education Code or any attempt to commit such offense.
- f. Frequent unexcused absence or tardiness.
- g. Illness leaves, when habitually taken for trivial indispositions.
- h. Continuing illness of a disabling nature after the exhaustion of illness leave and leave of absence privileges.
- i. Failure to report for review of criminal records or for health examination after due notice.
- j. Advocacy of overthrow of the Government of the United States or the State of California by force, violence or other unlawful means.
- k. Negligence or willful damage to public property or waste of public supplies or equipment.
- l. The discovery or development during an initial probationary period of any physical, emotional and/or mental condition which would have precluded acceptance as an eligible for assignment.
- m. Unexcused absence for five (5) consecutive days.
- n. Any of the causes specified in the Education Code.

4815.3 Dismissal of Probationary or Temporary Employee

A limited term, provisional, emergency, or substitute employee may be dismissed at any time without the right of appeal or hearing before the Superintendent or the Personnel Commission.

Probationary employees whose dismissal is recommended by the immediate supervisor may, within five (5) days, request a hearing with the section director and/or the Superintendent. The decision of the Superintendent will be binding on the parties and the probationer shall have no further rights of appeal to the Personnel Commission. Written notice stating the reasons for the release shall be furnished the probationer by the personnel director.

4815.4 Procedures for Suspension, Demotion or Dismissal

- a. No disciplinary action shall be taken against an employee based upon material which is not in the employee's personnel file.
- b. Any person who places material in a personnel file or drafts material for placement in a personnel file shall sign and date the material. Employees shall be provided with copies of any such material at the time it is placed in the personnel file. An employee shall have the opportunity, during normal working hours and without loss of pay, to initial and date the material and to prepare a written response thereto. The written response shall be attached to the material and shall indicate the date it was placed in the file.
- c. The supervisor shall submit a written notice of proposed disciplinary action to the employee in person. If personal service is impracticable the note shall be mailed to the employee by return receipt certified mail. The warning notice shall include the following:
 1. a clear, detailed statement of the alleged charges together with copies of any documents upon which the action is based, or a statement that all documents are on file in the Human Resources Office and may be reviewed upon request;
 2. the effective date of the recommended action;
 3. a statement that the employee has the right to representation;
 4. a statement that the employee has the right to request a hearing with the Superintendent within five (5) days of receipt of warning.
- d. Upon request of the employee, the Superintendent or his/her designated representative shall conduct a hearing within five (5) days to allow the employee to respond to the charges.
- e. Within ten (10) days of the hearing, or upon failure of the permanent employee to request a hearing or to appear at the designated hearing, the Superintendent shall notify the supervisor and the personnel director of his decision to dismiss, modify, or implement the recommended action.
- f. The personnel director shall, within ten (10) days, implement Rule 4815.6 - Procedures for final notice of suspension, demotion or dismissal for permanent employees only. Probationary employees do not have the right of appeal to the Personnel Commission.

4815.5 Immediate Suspension

An employee may be ordered off the job with or without pay (pending formal action) when the employee's behavior requires immediate removal for the safety or welfare of the employee, the public or other Office of Education employees. This procedure should never be invoked unless it may be clearly justified. When an employee is immediately suspended, without being given a Notice of Proposed Disciplinary Action, the employee should thereafter be given the required Notice at the earliest practicable time.

4815.6 Procedures for Final Notice of Suspension, Demotion or Dismissal

Within ten (10) work days of the formal action by the Superintendent, a written copy of the charges must be served upon the employee personally. If personal service is impracticable the statement of charges shall be addressed to the employee at his/her last known address and deposited in the United States registered or certified mail with postage prepared and a return receipt requested. The statement of charges shall include:

- a. A statement of the nature of the disciplinary action.
- b. The effective date of the action.
- c. A statement of the acts or omissions upon which the action is based.

The alleged charges shall include:

1. A statement of the rule, regulation or law violated as set forth in this policy.
2. A statement advising the employee of his/her right to answer the statement and the time within which that must be done if the answer is to constitute an appeal.

4815.7 Appeal of Disciplinary Action

- a. Appeal and Answer: The employee, who has permanent status, may appeal to the Commission within ten (10) work days after service upon him/her of the charges by making a written answer to such charges, and filing said answer with the Superintendent, with a copy to the Commission.
- b. Grounds for Appeal: Appeal can only be made on the following grounds:
 1. That the procedures set forth in this disciplinary action policy have not been followed.
 2. That the removal was made because of affiliations, political or religious beliefs or opinions, race, color, sex, marital status or age.
 3. That the charges made do not constitute sufficient cause for the action taken.
 4. That the action taken was not in accord with the facts.

4815.8 Time and Conduct of Hearing

- a. After the employee has made and filed the appeal and answered the charges against him/her, the Commission shall investigate the matter on appeal and may require further evidence from either party. The Commission shall fix the time and place of the hearing of said charges 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 by the appointing authority and the relevant defenses set forth in the appeal and answer. The appealing employee shall have the right to be represented by counsel at all hearings.
- b. The Commission may conduct hearings of appeals or may appoint a hearing officer to conduct the hearing and report findings and recommendations to the Commission. In the event of an appeal by an employee of the Commission, a hearing officer shall be appointed.
- c. Hearings shall be conducted in the manner most conducive to determination of the truth, and neither the Commission nor its hearing officer shall be bound by technical rules of evidence. Decisions made by the Commission shall not be invalidated by any informality in the proceedings.
- d. The 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 witness and evidence to sustain its charges and the employee will then present witnesses and evidence in defense.
- f. Each side will be allowed to examine and cross-examine witnesses.
- g. The Commission may, and shall if requested by the Superintendent, or employee, subpoena witnesses and/or require the production of records or other material evidence.
- h. The Commission may, prior to or during a hearing, grant a continuance for any reason it believes to be important to its reaching a fair and proper decision.
- i. Whether the hearing is held in a public or executive session, the Commission, after it concludes the hearing, may deliberate its decision in executive session. No persons other than members of the Commission, its counsel, and its staff shall be permitted to participate in the deliberations. If the personnel director or any staff is not serving full-time for the Commission and or was a witness in the proceedings, they shall be barred from the Commission's final deliberations. If its counsel also served as counsel for the Superintendent, he/she shall be barred from the Commission's final deliberations.

4815.9 Findings and Judgments of the Commission

- a. The Commission shall render its judgment as soon after the conclusion of the hearings as possible and in no event later than fourteen (14) days. Its decision shall set forth which charges, if any, are sustained and reasons therefore.
- b. 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.
- c. The Commission's order of judgment will be filed with the Superintendent and will set forth its findings and decision. If a disciplinary action is not sustained, its order shall set forth the effective date of the action ordered by the Commission.
- d. If the order of suspension is not sustained, all pertinent charges shall be voided and all appears pertaining thereto shall be destroyed. The Superintendent shall direct all back pay and benefits to be reimbursed from the time the action was taken. In all appeals of disciplinary action the decision of the Commission is final and binding on the Superintendent.

4815.10 Failure to Appeal or Answer

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

4815.11 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.

LEGAL REFERENCE: California Education Code

- 45302. Demotion and Removal from Permanent Classified Service
- 45303. Additional Causes for Suspension or Dismissal of Employees in Classified Service
- 45304. Written Charges for Suspension, Demotion or Dismissal; Provisions for Suspension Pending Determination of Sex Offense or Narcotics Offense
- 45305. Appeal by Employee from Suspension, Demotion or Dismissal
- 45306. Investigation and Hearing on Appeal
- 45307. Reinstatement and Employee Compensation; Determination of Terms and Conditions; Notification

SECTION 4816

PERSONNEL FILES

4816.1 CONTENT OF FILE

The personnel file of each employee shall be maintained in the Human Resources Office. No adverse action of any kind shall be taken against an employee based upon materials which are not in the personnel file.

Any person who places written material or drafts written material for placement in an employee's file shall sign the material and signify the date on which such material was drafted. Employees shall be provided with copies of any derogatory written material ten (10) work days before it is placed in the employee's personnel file. The employee shall be given an opportunity during normal work hours and without loss of pay, to initial and date the material and to prepare a written response to such material. The written response shall be attached to the material and shall indicate the date placed in the employee's personnel file.

4816.2 Inspection of File

Employees shall have the right at any reasonable time, without loss of pay, to examine and/or obtain copies of any material from the employee's personnel file with the exception of material that includes ratings, reports or records which were obtained prior to the employment of the employee involved.

All personnel files shall be kept in confidence and shall be available for inspection only to other employees of the Office of Education when actually necessary for the proper administration of the Office of Education's affairs or the supervision of the employee.

The employee's personnel file shall be available for examination by the employee or designated representative if authorized by the employee.

LEGAL REFERENCE: California Education Code

- 45031. Personnel File Contents and Inspection
- 1198.5. Employee Records