

*Developed by the Personnel Commission
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Merit System Rules and Regulations



for classified employees



Sonoma County
Office of Education

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CHAPTER 10 - DEFINITIONS AND PRELIMINARY STATEMENT

10.100.1 DEFINITIONS, GENERAL

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

ACT or THE ACT: The Act will mean those sections of the Education Code of the State of California applying the Merit System to classified employees in the Sonoma County Office of Education. It will include all the provisions of Article 6, Chapter 5, Part 25, Division 3, Title 2, and applicable provisions of Chapter 1 and Articles 1 to 4, Chapter 5, Part 25, Division 3 (Education Code Section 1317).

ALLOCATION: The official placement of a position to a given class, and to a range on the salary schedule.

ALTERNATE POSITION: A single position which may be filled alternately by an employee in either of two or more classes at the discretion of the Superintendent. The highest alternate class will be considered as being the normal working level of the position, and any alternate lower class will be considered a level suitable for recruitment and training.

ANNIVERSARY DATE: The date upon which an employee is granted an earned salary increment. Effective July 1, 2014, for the purposes of salary step advancement, the anniversary date of each classified employee will be recognized as July 1 of each year. All subsequent earned step advancements will be made on July 1 of subsequent years unless otherwise provided by the contract terms or merit system.

APPEAL: A request from an employee, or a recognized employee organization, to have complaints, protests, or points of disagreement heard, after which a former decision may or may not be upheld by the supervisor, hearing officer, Commission, or Board. (See Rules 40.200.15 and 60.1000.4.)

APPLICANT: A person who has filed a completed and responsive employment application for a classified position.

APPOINTING AUTHORITY OR POWER: The County Superintendent, or designee, or the Personnel Commission, when referring to Commission employees and positions.

APPOINTMENT: The official act of approving the recommendation of the appointing authority for the employment of an applicant

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

ASSISTANT SUPERINTENDENT OF HUMAN RESOURCE SERVICES: Term to be used in reference to the lead of the Human Resource Services Department with responsibilities to the Personnel Commission although the official title may be different such as Associate Superintendent, Director, or other.

BEREAVEMENT LEAVE: A paid leave of limited duration granted to an employee upon the death of a member of the employee's immediate family or household. (Education Code Section 45194)

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

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

CERTIFICATED SERVICE: Those employees and positions required by law to possess credentials issued by the Commission on Teaching Credentialing for the State of California.

CERTIFICATION: The process of submitting the top three (3) available eligibles from the appropriate eligibility list or from some other source of eligibility to the appointing authority or to the department which selects employees prior to approval of the appointing power.

CLASS or CLASSIFICATION: At a minimum, a group of positions sufficiently similar with respect to duties and responsibilities that the same title may reasonably and fairly be used to designate each position allocated to the class and that substantially the same tests of fitness may be used and that substantially the same minimum qualifications may be required and that the same schedule of compensation may be made to apply with equity. (Government Code Section 18523.) See Section 30.200.3 for Class Specifications.

CLASS SPECIFICATION: A formal statement of the typical duties and responsibilities of each position in the class, which includes a listing of tasks and qualifications. (AKA Job Description)

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

COMMISSION: The Personnel Commission established pursuant to the Act for the Sonoma County Office of Education.

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

CONTINUOUS EXAMINATION: A method of recruiting and examining applicants, in which the filing deadline is not specified and examinations are administered from time to time as the needs of the service require and there are complete applications on file for the classification.

COUNTY OFFICE: The Sonoma County Office of Education.

DAY: Unless otherwise provided in these rules, means a day the County Office is open for business.

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

DISCHARGE or DISMISSAL: Involuntary separation from service for cause.

DISTRICT: The Sonoma County Office of Education.

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

ELIGIBLE: Adjective: Legally qualified to be appointed. Noun: A person whose name appears on an active eligibility or reemployment list.

ELIGIBILITY LIST: A list of the names of candidates who have qualified for employment in a competitive examination. See Employment List.

EMERGENCY APPOINTMENT: An appointment for a period not to exceed fifteen (15) working days to prevent the stoppage of public business when persons on eligibility lists are not immediately available. (Education Code Section 45290)

EMPLOYEE: A person who is employed by the County Office or who is on authorized leave of absence.

EMPLOYEE GROUP: All employees designated as belonging to a designated unit, such as the confidential unit, the SEIU bargaining unit, or the classified management unit.

EMPLOYEE ORGANIZATION: An organization, which represents classified employees and acts as the exclusive representative for the employee in their employment relationship with the employer. Also includes any person of the employee organization authorized to act on its behalf. (Government Code section 3540.1)

EMPLOYMENT LIST: A list of names from which certification may be made. Includes eligibility lists, reemployment lists, and lists of persons who wish to be transferred, demoted, reinstated, reemployed after resignation, or restored after voluntary demotion or reduction to limited-term status. (Rule 50.100.)

EMPLOYMENT STATUS: An employee's present appointment indicating whether the employee is probationary, permanent, provisional, emergency, restricted, substitute, or limited-term.

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

EXCLUSIVE REPRESENTATIVE: The employee organization recognized or certified as the exclusive negotiating representative of classified employees in an appropriate unit as recognized by the Public Employees Relations Board.

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

EXTENDED SCHOOL YEAR EMPLOYEE: An employee who works during the Extended School Year. Such an employee may return to work for the County Office year after year, but will not work more than 150 hours in any one year, except that such an employee may be employed in excess of 150 hours in a year when employed as a substitute employee to cover the absence of a regular employee. An Extended School Year employee does not attain regular employee status.

EXTENDED SCHOOL YEAR POSITION: A limited-term position, which is used during the Extended School Year.

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

GOVERNING BOARD: The Board of Education of the Sonoma County Office of Education.

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

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

HIRE DATE: Date of original or most recent employment if there has been a break in service, with the County Office.

ILLNESS LEAVE: Paid or unpaid leave granted to an employee because of their personal injury or illness, or the injury or illness of a spouse, domestic partner, child or parent.

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

INTERMITTENT ASSIGNMENT: A limited-term position, available to regular employees, which is used to cover assignments which start and stop and have varied hours during the school year. Such assignments not to exceed a total of 1040 hours in any year.

INTERVIEW: Part of the selection process, also known as a hiring or oral interview, usually the final portion of an examination, for the purpose of evaluating the qualifications of the candidate for a position. This term also applies to a meeting between an eligible and the appointing authority, or designated representative, to discuss possible appointment to a specific vacancy within the County Office.

JOB DESCRIPTION: (Please see class specification.)

JOB TITLE: The title assigned to a classification by the Personnel Commission. The Assistant Superintendent of Human Resource Services may suggest titles for new job classifications, and may use such title, pending final approval of the Commission.

LAYOFF: Separation from a permanent position because of lack of work or lack of funds, or because the position has been abolished or reclassified, or because an employee has exhausted all leave privileges after illness or injury. Layoff also includes any reduction in hours of employment due to lack of funds or lack of work, unless voluntarily requested by the employee.

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

LIMITED-TERM: A term used in the Education Code and these rules to designate the positions established for fixed periods of employment not to exceed six (6) months or the employment of an employee during the authorized absence of a regular employee (synonymous with "temporary".) (Education Code Section 45286)

LIMITED-TERM EMPLOYEE: An employee who is temporarily working for an absent employee or in a position established for a period of six (6) months or less. The employee may have been elected from an eligibility list or may be serving under a provisional appointment.

LOYALTY OATH: A statement required as mandated by law for each new employee documenting their support of the United States and California Constitutions.

MERGING: The act of combining two (2) or more eligibility lists, which were established no more than one (1) year apart, in rank order of the scores of the eligibles.

OFFICE or THE OFFICE: Sonoma County Office of Education.

ORAL EXAMINATION: A formal interview by a selection panel to evaluate the candidates' general fitness for employment and technical knowledge and skills for a specific classification.

PERFORMANCE EVALUATION: A formal written statement of the quantity and quality of the work performed by a person employed by the County Office in the classified service.

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

PERSONAL NECESSITY LEAVE: The use of accrued sick leave for an approved leave of absence with pay for a limited duration, which may be taken for reasons of personal need which cannot be accomplished outside of the employee's normal work hours.

PERSONNEL COMMISSION: A three (3)-member committee appointed by the State Superintendent of Public Instruction and an Alternate Commissioner selected in accordance with these rules to administer the Merit System in accordance with the Education Code and these rules.

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

POSITION: A combination of duties and responsibilities assigned by competent authority usually performed by one (1) person on a regular or limited-term basis. A position can only be established by action of the Superintendent.

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

PROBATIONARY PERIOD: The trial period, as established by the Personnel Commission pursuant to Education Code Section 45301, immediately following an original or promotional appointment to a permanent position from an eligibility list.

PROFESSIONAL EXPERT: A person employed in a professional capacity for a specific project. Such persons are excluded from classified service.

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

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

PROVISIONAL APPOINTMENT: A temporary appointment of a person to a permanent or limited-term position made in the absence of an appropriate eligibility list, not to exceed ninety (90) working days, except in specified circumstances, such as when no one else is qualified and available. (See Education Code Sections 45287, 45288, and 45289; also Rule 50.400.)

PROVISIONAL EMPLOYEE: A term used to designate temporary appointment as a substitute made in the absence of an appropriate eligibility list, not to accumulate to a total of more than ninety (90) working days. No time served will count toward acquiring permanent status in any position. (Education Code Sections 45287, 45288, 45289)

REALLOCATION: Movement of an entire class from one salary range to a different salary range.

REAPPOINTMENT: An employee is appointed to a position held previously.

RECLASSIFICATION: A change in a position or class of positions by raising it to a higher class, reducing it to a lower class, or moving it to another class at the same level, on the basis of substantial changes over a period of time in the kind, difficulty, or responsibility of duties performed in such position. Reclassification will not be construed as promotion or demotion. Education Code Section 45285; also Rule 30.200.10.

REEMPLOYMENT: Return to duty of an employee who has been laid off.

REEMPLOYMENT LIST: A list of names of persons who have been laid off from regular positions and who are eligible for reemployment in their former class without examination, arranged in order of their right to reemployment by seniority. (See Rule 50.100.4.)

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

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

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

REINSTATEMENT: A reappointment, within thirty-nine (39) months after resignation, in regular or limited-term status, without examination, in the employee's former class, or in a lower related class.

RESIGNATION: A voluntary, written statement of termination of employment by an employee an abandonment of position may also be considered a resignation under these rules.

RESTORATION: Includes "reemployment" (see above). The reinstatement to duty of an employee, or former employee, to the same class and status that they held when they resigned, with all the rights, benefits, and burdens held prior to the break in service. It also refers to the reassignment of an employee, who had demoted to their former class, or to a related class, or after reduction to limited-term status to regular status.

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

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

SALARY STEP: A specific location in a salary range, not the dollar amount. (Note: The salary range applicable to a class may change without affecting the step placement rights of employees.)

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

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

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

SENIORITY: The first date of paid service in a regular position (probationary or regular) within a classification or a higher classification will determine seniority.

SEPARATION: The official termination of employment with the County Office; including resignation, dismissal, layoff, retirement, etc.

SERIES: A grouping of classes which have closely related skills and duties, progresses in qualifications and responsibilities, and would normally form a promotional ladder.

STATUS: The condition of an employee's current employment, such as permanent, probationary, provisional, limited-term, restricted, emergency, or substitute.

STEP ADVANCEMENT: Movement to a higher step on the salary range for the class as a result of having served satisfactorily for the required number of months in the class.

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

SUPERINTENDENT OF SCHOOLS/SUPERINTENDENT/COUNTY SUPERINTENDENT: Terms that refer to the Sonoma County Superintendent of Schools.

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

TEMPORARY: Employment on a basis other than permanent or probationary (i.e., in limited-term or provisional status).

TENURE: Tenure, which is acquired in a classification by reason of examination, certification from eligibility lists, election, or appointment by the appointing power, and the successful completion of the probationary period.

TOTAL COMPENSATION: The amount paid to an employee as payment for services rendered that includes an amount for hourly or monthly salary and an amount towards the cost of benefits. Under a total compensation approach, the employee is responsible to pay the majority of the cost of the benefit premiums.

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

UNCLASSIFIED SERVICE: All positions and employees not in the classified or certificated service (i.e., those exempted by law).

WAIVER: The voluntary relinquishment by an eligible of any right to consideration for appointment from an eligibility list.

WORKDAY: That part of a twenty-four (24) hour period during which an employee is required to be on duty in accordance with their specific assignment.

10.200.0 PRELIMINARY STATEMENT

10.200.1 Statutory Authority for These Rules

The California Education Code commencing with Section 45240 provides the Personnel Commission with the right and responsibility for establishing rules and regulations as may be necessary to ensure the efficiency of the service and the selection and retention of employees based upon merit and fitness.

The rules contained herein are established pursuant to the authority of the Personnel Commission under Education Code Sections 45260, 45261, and other provisions governing the Merit System Act in the Education Code. (Note: It is recognized that certain of these rules may venture into substantive matters within the prerogative of the County Superintendent. For that reason, the initially adopted set of rules and regulations were submitted to the Governing Board for its approval.)

It will be the policy of the Commission to submit all new rules or amendments or deletion of existing rules to the County Superintendent when:

- A. The rule obviously requires Superintendent approval, and
- B. It is difficult to define the division of Commission and the Superintendent authority regarding the rule in question.

In such cases, the rule in question will not become effective until it has been approved by the County Superintendent.

10.200.2 Interpretation and Application of Rules

The Commission recognizes that no set of rules can contemplate all possible combinations of circumstances affecting particular cases. These rules are to be applied with consideration to their intent. These rules will not be waived, ignored, or superseded because of the special circumstances of particular cases.

In instances where two or more rules appear to be in conflict; or when no rule provides a clear-cut answer to a problem, the matter will be decided by the Assistant Superintendent of Human Resource Services, subject to appeal to the Personnel Commission for a final and binding decision. The Commission is open to responsible suggestions to amend the rules with prospective application; however, no rule amendment or new rule will have retroactive applicability. (See Rule 20.300.2 C.)

10.200.3 Generic Terminology

As used in these rules, the terms "they", "them", "their" etc. refer to all gender classifications and all people.

10.200.4 Judicial Review

If judicial review or a change in law causes any portion of these rules to become invalid or unenforceable, such finding or amendment will not affect the validity or the enforceability of other rules or provisions.

10.200.5 Effect of Data Contained in Addendum to Rules

The salary schedules and related data, class placement on the salary schedule, a classification plan, job descriptions, class specifications, and similar written material, and written material contained in any addendum to these rules are to be interpreted as having the same force and effect as Commission rules.

10.200.6 Distribution of Rules (Education Code Section 45262)

Copies of these rules are available to the classified employees, Sonoma County Office of Education managers, Board members, members of the public, and to those persons who may be concerned with the enforcement of these statutes through posting on the Sonoma County Office of Education website. A hard copy will be provided upon written request to the Human Resource Services Department.

CHAPTER 20 - THE PERSONNEL COMMISSION

20.100.0 ORGANIZATION OF COMMISSION (Education Code Section 45243)

20.100.1 Composition & Terms

A. In accordance with Pre-1965 Personnel Commission Procedures and Education Code Section 45249 (c) & (d), the Personnel Commission is composed of three individuals, who are officially appointed by the State Superintendent of Schools, must be registered voters, reside in Sonoma County, and be known adherents to the principles of the Merit System. No member of the County Office governing board or the governing body of any Sonoma County school district will be eligible for appointment, re-appointment, or continuance as a member of the Commission. During the Commissioner's term of office, they will not be an employee of the County Office.

1. As used in these rules "known adherent to the principles of the Merit System," with respect to a new appointee, will mean a person who by the nature of their prior private or public service has given evidence that they support the concept of employment, continuance of employment, in-service promotional opportunities, and such other related matters on the basis of merit and fitness.
2. As used in these rules "known adherent to the principles of the Merit System", with respect to a candidate for re-appointment, will mean a commissioner who has clearly demonstrated through meeting attendance, conduct, and actions that they support the Merit System and its operations.

B. By law, the term of each Commissioner is for three (3) years and expires at noon, December 1. The term of one (1) Commissioner expires each year. On or about September 1 of each year, the Assistant Superintendent of Human Resource Services will notify the Governing Board of the name of the Commissioner whose term will expire and whether or not they will seek re-appointment.

In accordance with Education Code Section 45249 (c) & (d), the following steps will be followed when the Personnel Commission announces there is a vacancy on the Commission.

1. Human Resource Services will set an application period and will advertise the opportunity to serve as a personnel commissioner through an announcement on the Personnel Commission's agenda, a press release, and on the Sonoma County Office of Education website.
2. Human Resource Services will notify the County Board of Education, as well as Service Employees International Union (SEIU), confidential employees and classified management of the application period and opportunity for a representative from their employee group to participate in the selection process.
3. Applications will be available in the Human Resource Services Department and on the Sonoma County Office of Education website.

4. All candidates must submit a completed (written or electronic) application and supplemental questionnaire by the deadline.
5. The Personnel Commission will request that a representative from the County Board of Education, and representatives from classified management, classified confidential, and SEIU screen the applications received by the deadline to determine if the applicants meet the following minimum requirements:
 - a. Known adherent to the principles of the merit system;
 - b. Resident of Sonoma County;
 - c. Registered to vote in Sonoma County;
 - d. Not a member of the Sonoma County Board of Education or member of the board of education for any other local district;
 - e. Not an active employee of the Sonoma County Office of Education;

Applicants who meet the minimum requirements and pass paper screening will be invited to participate in an interview described in 20.100.1.B.6 below.

6. Human Resource Services will schedule applicants, who met the minimum requirements, to participate in an interview by a panel composed of one representative from each of the following employee groups: SEIU represented employees, confidential employees and/or classified management employees; and a representative of the County Board of Education. The panel will score the applicants based upon their responses to the interview questions.
7. The name of the applicant receiving the highest score will be submitted to the Personnel Commission at a regular or special Personnel Commission meeting, along with formal letters of support from SEIU Local 1021 and the County Superintendent of Schools. The Personnel Commission will make a recommendation to the Business and Personnel Services Standing Committee for appointment. The Personnel Commission may direct the Assistant Superintendent of Human Resource Services to complete a reference check and fingerprint clearance prior to their recommendation to the standing committee.
8. The Business and Personnel Services Standing Committee will make a recommendation on the appointment of the nominee to the County Board of Education.
9. The County Board takes action to approve the recommendation to the State Superintendent of Public Instruction, who will officially approve the appointment.

Prior to September 1, if an incumbent expresses, in writing, their interest to be re-appointed to the Commission when their current term expires, the classified bargaining unit, the County Superintendent of Schools, and the Governing Board may choose to support the re-appointment, if the member is in good standing, without

undergoing the open recruitment process as outlined above. The Personnel Commission will present the incumbent's interest in re-appointment to the Business and Personnel Services Standing Committee. The members of the Business and Personnel Services Standing Committee may make a recommendation to the Governing Board to re-appoint the incumbent without undergoing the open recruitment process.

C. As provided by Education Code Section 1317(b) the Commission may appoint one or more alternative commission members. Such alternate(s) will have a term of two years from the date of appointment. Such alternate(s) will have regular attendance at all meetings of the Commission and will have all rights, responsibilities and protections of a regular member. However, such alternate(s) will only participate in closed sessions of the Commission or act as a full voting member when a regular member of the Commission is not in attendance.

1. The appointment of any alternate member, by a majority vote of the commission, will be with the input of all affected employee groups and concurrence of employee organizations. Such input and concurrence will be confirmed in writing prior to appointment.
2. Regulations related to appointment of alternative commission member(s) were adopted after a public hearing on February 23, 2000 and consultation with all affected employee organizations.
3. In the event that an alternate member does not attend three (3) consecutive meetings of the Commission they may be deemed to have resigned their appointment. In such an event, the Assistant Superintendent of Human Resource Services for classified personnel will issue a confirmation of the resignation in writing.

D. Emergency Appointment of Commissioner

If there are two (2) vacancies on the Personnel Commission, the alternate Commissioner will serve as a regular Commissioner until such time as the vacancies are filled.

E. Events Causing Vacancy Before Expiration of Term

Personnel Commissioners are expected to attend regular and special meetings of the Personnel Commission. If a member is unable to attend a scheduled meeting, the member will contact the Assistant Superintendent of Human Resource Services, or their designee, to inform the Commission of the expected absence.

A member of the Commission will be deemed to have vacated the seat on the Commission if any of the following circumstances occur:

1. The death of the Commissioner.
2. An adjudication declaring that the Commissioner is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable

cause to believe that the Commissioner will not be able to perform the duties of the office for the remainder of their term.

3. The Commissioner's resignation.
4. The Commissioner's removal from office by a court of competent jurisdiction.
5. The Commissioner's absences exceed five (5) total regular meetings in a fiscal year, except when prevented by illness or other excused absence.
6. Commissioner's conviction of an offense involving a violation of the official duties of a commissioner as required by these rules and law or a conviction of an offense that would preclude employment in a public school.
7. The Commissioner becomes an employee of the County Office.
8. The Commissioner is elected or appointed to the County Board of Education or the Board of a Sonoma County school district.

In addition, if a Commissioner violates the confidentiality of a closed session, the remaining Commissioners may consider removing said Commissioner from the Commission.

20.100.2 Officers

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

20.100.3 Quorum and Majority

Two (2) members will constitute a quorum for any regular or special meeting of the Commission. The affirmative vote of two (2) members will be necessary to any action. An alternate member will be considered a member for purposes of establishing a quorum and an affirmative vote when a regular member is absent.

20.200.1 MEETINGS

20.200.2 Regular Meetings

Subject to cancellation or proper change, the Commission will meet on the fourth Monday of each month in the Personnel Conference Room. When the regular meeting date falls on a holiday, the Commission will meet on the next succeeding business day, unless at a prior regular meeting it designates some other day for its meeting. In cases of emergency, the Commission may meet at some other time and/or place, provided that at least twenty-four (24) hours notice is given to all Commissioners and to employee and administration representatives and posted on the Commission's official bulletin board.

20.200.3 Adjourned Regular Meetings

The Commission may adjourn any regular or previously adjourned meeting to a specific date, time, and place in the order of adjournment. When so adjourned, the reconvened meeting is a regular meeting for all purposes.

20.200.4 Special Meetings

Special meetings may be called at any time by the Chairperson, and will be called upon the request of any two (2) members. Written notice will be delivered personally or by email to each member of the Commission and also be given to recognized employee organizations at least twenty-four (24) hours before the time of such meeting as specified in the notice. A copy of the notice must be posted as required by law. The order must specify the time and place of the special meeting and the business to be transacted. No other business will be considered at such a meeting by the Commission.

20.200.5 Public Meetings

- A. All regular and special meetings of the Commission must be open and public, and all persons will be permitted to attend any meetings of the Commission, except as provided in Rule 20.200.5.
- B. Individual employees, employee organizations, and other interested parties may submit their written views on any matter before the Commission. Members of the public who wish to address the Commission on agenda or non-agenda items will be heard once for up to three (3) minutes. The presiding chair of the Commission will determine, based on time constraints of the Commission, whether some time less than three (3) minutes will be allocated to individual speakers.
- C. The total number of speakers who will be provided an opportunity to address the Commission regarding an item not on the agenda, will be limited to three (3) speakers, and the total amount of time allocated to an item not on the agenda will be ten (10) minutes regardless of the number of speakers, unless either, or both, of the above limits are extended by the majority of the Commissioners present at the meeting.
- D. With consensus of the other Commissioners present, the presiding chair may extend the time allotted to an individual speaker whose remarks are on a specific agenda item being considered by the Commission, if, in the judgment of the Commissioners present, the information being presented will assist the Commissioners in making a decision. The Commission will consider public comments and recommendations prior to arriving at a course of action.

20.200.6 Closed Sessions

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

employee has been notified of their right to a public hearing and has declined the public hearing or properly failed to request the same.

- B.** The Commission may hold closed sessions with its designated representatives prior to and during consultations and discussions with representatives of employee organizations regarding salaries, salary schedules, or compensation paid in the form of fringe benefits in order to review its position and instruct its designated representatives.
- C.** The Commission may hold a closed session on any other matter, which is authorized by law to be considered in closed session. Prior to holding such a closed session, the Commission will state the general reason(s) for the closed session and may cite the statutory or other legal authority under which the session is being held. The Commission is not authorized or required to give names or other information, which might constitute an invasion of privacy or otherwise unnecessarily divulge facts and information for which the closed session is being held.
- D.** The Commission will publicly report, in the public portion of the meeting in which the closed session is held, or at its next public meeting, any action taken by the Commission in the closed session.
- E.** A violation of the confidentiality of a closed session by a member of the Personnel Commission constitutes a misdemeanor, and may be grounds for removal of the Commissioner from office.

20.200.7 Agenda and Supporting Data

- A. Agenda**

The regular monthly commission meeting agenda will be composed by the Assistant Superintendent of Human Resource Services with input from the Commissioners.
- B. Requests for Agenda Items**

If an employee or a member of the public wishes to place an item on the Commission's agenda the request will be submitted in writing to the Assistant Superintendent of Human Resource Services at least one week before the date of the Commission Meeting. The request will include the name, address and phone number of the person making the request and any supporting documents.

The Assistant Superintendent of Human Resource Services will determine if the item is appropriate for discussion, information or action by the Commission.

If the requested agenda item subject matter is negotiable or not within the Personnel Commission's ability to render a decision or to discuss publicly, the request will be denied.

If an agenda item is denied, the person making the request may address the Commission under public comments. However, the Commission will not respond unless the item is agendized on a future meeting agenda. If the Commission decides

to agendize the item for a future meeting, it will use any contact information provided to inform the person making the request as to the meeting date when the item will be considered.

C. Posting and Distribution

Insofar as possible, at least seventy-two (72) hours prior to every special Commission meeting, the agenda will be provided to the designated representatives of employee organizations representing classified employees, and will also be posted as required by law.

20.200.8 Amendment, Deletion, or Addition to Rules (Education Code Sections 45260 & 45261)

- 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, unless a critical emergency exists, be finally acted upon at that meeting.
- B. At the "first reading" the Commission may tentatively adopt the proposal, after which it will be publicly posted for not less than ten (10) days. It will instruct the Assistant Superintendent of Human Resource Services to refer the proposal to interested persons or organizations for comment and recommendation.
- C. Insofar as possible, interested parties will submit their reactions to proposals, in writing, on or before the next Commission meeting, and will have the right to present their reactions orally at the next Commission meeting prior to final action being taken on the proposal.

20.200.9 Minutes

The Assistant Superintendent of Human Resource Services will record in the minutes the time and place of each meeting, the names of the Commissioners present, all official acts of the Commission, and the votes of the Commissioners. When requested by them, a Commissioner's dissent or approval and their reasons will be recorded. The minutes will be written and presented for correction and approval at the next regular meeting. The minutes or a true copy thereof will be open to public inspection. Copies of the official minutes will be distributed to various departments in the County Office of Education and recognized employee organization representatives who have requested them.

20.200.10 Compensation of Commissioners (Education Code Section 45250)

Each Commissioner, including alternates, will receive the sum of fifty dollars (\$50.00) for each meeting attended in any one (1) month, including regular, adjourned, or special meetings, but not to exceed a total of two hundred fifty dollars (\$250.00) per month; plus, necessary travel expenses.

20.300.0 COMMISSION EMPLOYEES

20.300.1 Status of Commission Employees

The Assistant Superintendent of Human Resource Services and other persons required to carry out the responsibilities of the Commission will be appointed by and be responsible to the Personnel Commission.

20.300.2 General Duties of the Assistant Superintendent of Human Resource Services
(Education Code Section 45266)

A. The Assistant Superintendent of Human Resource Services will perform all of the duties and carry out all of the functions imposed upon them by law and these Rules. They will act as Secretary to the Commission, and will issue and receive all notifications on its behalf.

They will direct and supervise the employees of the Commission and conduct administrative transactions and perform such other duties as authorized by the Commission consistent with the law and Rules and necessary to the proper functioning of the office and staff of the Commission.

B. The Assistant Superintendent of Human Resource Services will conduct classification, salary, and rule studies and will make such other investigations as directed by the Commission or as they deem necessary to their responsibilities.

C. In cases where two (2) or more rules appear to be in conflict, or when no rule provides a clear-cut answer to a problem, the matter must be decided by the Assistant Superintendent of Human Resource Services, with advice of the Legal Advisor as needed and subject to appeal to the Commission. (Rule 10.200.2)

20.400.0 MISCELLANEOUS PROVISIONS

20.400.1 Communications

A. Communications and requests to the Commission will, insofar as practicable, be in writing. Communications and requests will be acknowledged and replied to, noting official Commission action when appropriate.

B. Individuals or groups who wish to present proposals for action by the Commission will be encouraged to present them to the Assistant Superintendent of Human Resource Services for placement on the Commission agenda. It will be against the policy of the Commission to discuss such proposals, except at open meetings, although the Commission may designate one (1) of its members to investigate a specific subject.

20.400.2 Budget (Education Code Section 45253)

A. The Assistant Superintendent of Human Resource Services will prepare and submit to the Commission a proposed operating budget for the Commission for the next

ensuing fiscal year. The budget will be submitted not later than the first Commission meeting in April.

- B.** The Commission will hold a public hearing on its proposed budget not later than May 30 of each year. At the time the Commission schedules the public hearing, it will direct the Assistant Superintendent of Human Resource Services to forward a copy of the proposed budget to the Board of Education and notify the Board of the time, date, and place of the public hearing. Board and administration representatives will be invited to attend the public hearing and present their views on the proposed budget.
- C.** Prior to adoption of its budget, the Commission will hear and fully consider all comments and suggestions that may be offered by the administration representatives, the Board, or other concerned persons or organizations. Efforts will be made to resolve any differences that may exist between the Commission and Board.
- D.** When approved by the Commission, the budget will then be submitted to the County Superintendent of Schools, who will take action in accordance with Education Code Section 45253.

20.400.3 Annual Report (Education Code Section 45266)

- A.** The Assistant Superintendent of Human Resource Services will prepare an annual report of Commission activities. When approved by the Commission, the annual report will be submitted to the Board of Education.
- B.** The report will be prepared for Commission approval as soon after each fiscal year as possible, and no later than a meeting in November. The report will cover Commission activities for the preceding fiscal year.

20.400.4 Legal Counsel

In matters other than appeal, hearings and discipline, the legal counsel retained by the County Office will also aid and represent the Personnel Commission, unless the Commission or legal counsel determines there to be a conflict of interest.

For a hearing on an appeal, a hearing on disciplinary action or if the Commission or legal counsel determines that a conflict of interest exists on another matter, the Commission will retain legal counsel of its choosing, and the cost of such counsel will be paid by the County Office.

Except as provided above, the Commission may employ by contract or as a professional expert or otherwise any hearing officer or attorney to advise the Commission on matters subject to these rules.

CHAPTER 30 - POSITION CLASSIFICATION PLAN

30.100.0 THE CLASSIFIED SERVICE

30.100.1 Positions Included (Education Code Section 45100, et seq.)

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

30.100.2 Exemption from the Classified Service

- A. Generally (Education Code Section 45256)
Positions required by law to have certification qualifications, including, but not limited to the following: the Assistant Superintendent of Human Resource Services, part-time playground positions, full-time day students employed part-time, apprentices, and professional experts employed on a temporary basis for a specific project by the Superintendent or by the Commission when so designated by the Commission, will be exempt from the classified service.
- B. Special Categories (Education Code Section 45112)
 - 1. Board Assistants: The Governing Board may create positions of staff assistants or field representatives to directly assist the Board or individual Board members. Such positions, if created, are exempted from the provisions of these Rules, insofar as they relate to position classification, recruitment, employment, and salary setting.
 - 2. Professional staff of School and College Legal Services of California (SCLSC: SCLSC Professional staff, including, but not limited to the General Counsel, attorney classifications and the Coordinator of Employer/Employee Relations are exempt from the Merit Rules under the provisions of the Joint Powers Agreement for School and College Legal Services of California (SCLSC). SCLSC support staff are not exempt and are covered by these rules.
 - 3. Senior Management: (Education Code Section 45108.5) - Senior management employee is defined as either of the following:
 - a. An employee in the highest position in a principal program area, as determined by the Superintendent, which does not require certification qualifications, and which has agency wide responsibility for formulating policies or administering the program area;

- b. An employee who acts as the fiscal advisor to the Superintendent. Persons employed in such positions will be members of the classified service for all purposes, except that they may not achieve permanency in the classified service as a result of this service. Staff assistants will serve at the pleasure of the County Superintendent. Senior Management positions serve at the pleasure of the Superintendent, and in the case of the Assistant Superintendent of Human Resource Services, at the pleasure of the Superintendent and the Personnel Commission;

Notice of reassignment or dismissal from a senior management position in the classified service will be provided in accordance with the provisions of Education Code Section 35031.

4. Employment of Attorneys Who Have Retired from PERS (Education Code Section 45256)

The County Superintendent may create a professional expert classification for employing attorneys who have retired from the Public Employees Retirement System. Incumbents of the classification will be paid at an hourly rate as established by the County Superintendent and will be exempt from all provisions of the Merit System Rules.

The professional experts will be employed on a temporary basis for specific projects, as determined by the County Superintendent. The classification will be limited to 960 hours per year or less.

If a regular classified employee is appointed to serve in such an exempt position, they will retain status as a regular employee. If they are terminated from the exempt position, they will have bumping rights in their former class in the same manner as if they had been laid off for lack of work or lack of funds.

30.100.3 "Part-Time" Defined (Education Code Section 45256)

A part-time position for the purpose of exemption is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than eighty-seven and one-half percent (87.5%) of the normally assigned time of the majority of employees in the classified service. The Personnel Commission has selected eight (8) hours per day as the unit of time upon which a determination is made.

30.100.4 Effect of Exemption

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

30.200.0 GENERAL CLASSIFICATION RULES

30.200.1 Assignment of Duties (Education Code Section 45109)

The Superintendent will prescribe the duties and responsibilities of all positions in the classified service, except those on the Personnel Commission staff. When the duties being performed by an employee are found to be inconsistent with the duties officially assigned to their position, the Assistant Superintendent of Human Resource Services will report the facts to the responsible administrator in order that appropriate action is taken. (See Rule 30.200.10)

30.200.2 General Nature of the Classification Plan

The Personnel Commission will establish and maintain a classification plan for all Commission-adopted positions in the classified service. The list of classes will contain the designation of the salary range applicable to each class.

30.200.3 Class Specifications

For each class of positions, the Commission will establish and maintain a class specification, which will include:

- A. The official class title;
- B. A definition of the class, indicating the type of duties and responsibilities and placement within the organizational scheme;
- C. A statement of examples of typical tasks to be performed by persons holding positions allocated to the class;
- D. A statement of the minimum qualifications for service in the class. The minimum qualifications may include education, experience, knowledge, skills, abilities, personal traits/characteristics, and physical requirements;
- E. A statement of distinguishing characteristics, where applicable, which differentiates the class from other related or similar classes;
- F. A statement about any license, certificate or other special requirements for employment or service in the class; and
- G. A statement about any additional qualifications considered so desirable that any person considered for employment who possesses them may be given additional credit in the evaluation of their qualifications, even though such additional qualifications were not listed as a prerequisite.

30.200.4 Interpretation of Class Specifications

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

- A. The Class definition and typical tasks are descriptive and explanatory only and not restrictive. They indicate the kinds of positions that should be allocated to the respective classes as determined by their duties, responsibilities, and qualification requirements, and do not prescribe what these details will be in respect to any position.

The use of a particular expression or illustration in the examples of duties, responsibilities, qualification requirements, or other attributes is typical or descriptive of the class and does not exclude others not mentioned, but of similar kind and/or quality, as determined by the Personnel Commission.

- B. In determining the class to which any position will be allocated, the description for each class is considered as a whole and in its relation to others in the classification plan.
- C. Each class description is distinct in its proper relationship to other descriptions, particularly those of classes in the same series and group of classes, so that a proper gradation is maintained within the series in which the class is located and proper differentiation within the group of classes.
- D. Qualifications commonly required of all such as the ability to perform essential job functions, honesty, sobriety and industry, even though not specifically mentioned in the specifications, are implied in the qualifying requirements.
- E. The statement of qualification requirements, when considered with other parts of the description, is to be used as a guide in the announcement and preparation of tests and in the evaluation of the qualification of candidates seeking appointment but does not require a particular form or content of test or testing procedure.
- F. The class title will always be used with the meaning set forth in the remainder of the specification.

30.200.5 Allocation of Positions to Classes

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

30.200.6 Changes in Duties of Positions

Any substantial changes in the duties of existing positions must be promptly reported, in writing, by the Department Director through the Division Assistant Superintendent to the Assistant Superintendent of Human Resource Services, who will conduct a review to determine whether they should be allocated to different classes or be reclassified. Should a change in classification be warranted, the Assistant Superintendent of Human Resource Services will submit a recommendation to the Personnel Commission for action.

30.200.7 Working Out of Classification (Education Code Section 45110)

Classified employees will not be required to perform duties which are not fixed and prescribed by the Superintendent, unless the duties reasonably relate to those assigned to the position by the Superintendent for any period of time exceeding five (5) working days within a fifteen (15) calendar-day period without a reasonable upward adjustment in salary for the entire period they are required to work out of their classification. When an employee is assigned to work out of their classification, the Assistant Superintendent of Human Resource Services will report the fact with their recommendation to the Personnel Commission, which will make final determination of the reasonable salary adjustment for the duration of the temporary assignment.

30.200.8 Review of Positions

The Assistant Superintendent of Human Resource Services will review the duties and responsibilities of all positions as necessary to determine their proper classification. If a Department Director or Division Assistant/Associate/Deputy Superintendent finds that a position or positions should be reclassified, they will advise the Assistant Superintendent of Human Resource Services of their findings. If the Assistant Superintendent of Human Resource Services verifies the duties of the position(s), or if the duties are not revised to fit within the current classification, they will report their findings and recommendations to the Commission. They will also report their findings in cases where their review indicates that no change in classification is necessary. (See Rule 30.200.10.)

30.200.9 Creation of New Positions

- A. Whenever it is proposed that a new classified position be established, the following procedures will be followed:
1. The Departmental Director, with the approval of the Division Assistant Superintendent, initiates a request for the establishment of a new classified position.
 2. The Departmental Director prepares a job description. They also prepare and provide a justification for the position, including space requirements, equipment, materials, and as well as information regarding availability of funds for salary, fringe benefits, necessary equipment, materials, and supplies.
 3. The Superintendent reviews the request and supporting materials specified in paragraph two (2) above, and may elicit further supporting evidence from the Departmental Director.
 4. Upon approval by the Superintendent, the Assistant Superintendent of Human Resource Services will review the request and supporting materials and determine a recommended classification for the position.

5. Upon recommendation of the Assistant Superintendent of Human Resource Services, the Personnel Commission considers the proposal, and by appropriate action approves the classification of the position and assigns the position to the proper salary range.

For positions represented by a union, thereafter, the salary is subject to negotiations. (See employee contract for additional procedures.)

6. The recommendations of the Personnel Commission are presented to the Superintendent.
 - a. The Superintendent may approve or disapprove the request to establish the position, but may not alter the classification as determined by the Personnel Commission.
 - b. If the new position is approved, the Superintendent will amend the allocation list of positions by establishing a new position as classified by the Commission.
 - c. If the position is approved, the Superintendent may determine the effective date of the new position.
 - d. When a change in funding is necessary to support a new position, the Board will consider a budgetary revision.

30.200.10 Changes in Classification of Existing Position

- A. Whenever it is determined that a significant change has occurred in the duties and responsibilities of an existing position, the following procedures will be followed:
 1. The Departmental Director, with the approval of the Division Assistant Superintendent, may request a change in an existing classified position.
 2. The Departmental Director will prepare a new job description and accompanying organizational chart describing the relationship of the classified position within the department; and will provide financial data and/or other information in justification for the proposed change.
 3. The Departmental Director and/or the Division Assistant Superintendent will submit the above request to the Superintendent for consideration. The Superintendent will consider the effect of the proposal on the organizational structure of the office, and the availability of funds.
 4. Upon approval, the Assistant Superintendent of Human Resource Services will review the request and supporting materials, analyze the position, and make recommendations to the Personnel Commission, either in support of or against the proposal. Their recommendation may be for:
 - a. Reclassification of the position;

- b. Abolishment of the position; or
 - c. No change in existing classification.
5. The Personnel Commission will consider the recommendations of the Assistant Superintendent of Human Resource Services. It may also hear comments and recommendations from the Superintendent and/or staff, and may interview the incumbent of the position being considered.
- If, after careful consideration of the facts, the Personnel Commission by appropriate action makes a determination that the position classification will be changed, it will then transmit its findings with recommendations for implementation to the Superintendent.
6. The Superintendent considers the action and recommendations of the Personnel Commission. The Superintendent amends the allocation lists as may be required, determines the effective date of the recommended change, and approves funding when necessary.
- B. The Personnel Commission, in making its determination as required in Section A. 5 above, must be governed by the provisions of Education Code Section 45285. Only those employees who meet the specified years in service requirements (two (2) or more years) will be considered for reclassification action without examination.
 - C. When the Personnel Commission finds that there are significant factors which have existed over a reasonable period of time which justify a change in the classification of a position, but which do not warrant reclassification of that position, the determination may be made to abolish the original position and establish a new position in a more appropriate class.
 - D. When the Personnel Commission determines that a change in the classification of a position is not justified, it will direct that the original classification remain unchanged.
 - E. Notwithstanding the procedures to be followed as established in Section A. above, the Personnel Commission, upon written request of the Superintendent, the Assistant Superintendent of Human Resource Services, the union as specified in the contract, or any classified employee of the Superintendent's staff, will review the classification of an existing position when, in the opinion of the Commission, significant changes in the duties and responsibilities of the position so warrant.
 - F. The Personnel Commission, in making its determination to change the classification of an existing position, either by reclassification action or by the establishment of a new position in a different class, will consider the existing relationship of all classes within the Superintendent's office.

30.200.11 Status of Incumbent of Position After Change in Classification

- A. When a position is reclassified from one class to another class, any incumbent who meets the required years in service (two (2) or more years), as specified in the

Education Code, in such a class will continue without examination in the position in the new class with the same status, which they held in the former class. An employee who has been reclassified with their position will not be eligible for subsequent reclassification with their position for the period of time as specified in the Education Code Section 45285. (See Rule 70.200.8.)

- B. When a position is reclassified from one class to more than one class as an alternate position, any incumbent in such position will continue without examination in the position, in the same class if the position is so classified, or in the lowest class to which the position is classified if the former class is inapplicable, with the same status which they enjoyed in the former class.
- C. When a position is abolished and replaced with a new position in a different class, a promotional examination or an open examination, or both, will be conducted in accordance with these Rules.
 - 1. In the event the incumbent is promoted, they will assume the status, which they would assume upon promotion as otherwise provided by these Rules. (See Rule 60.300.3.)
 - 2. In the event of demotion, or in the event the incumbent does not qualify for reassignment, the junior employee in the former class will be demoted, or treated in the manner provided by these Rules for separation through layoff, whichever is applicable.

30.200.12 Mandatory Titles

As required by Education Code Sections 45340-45349, and determined by the Commission, teacher aide classes of positions will be assigned a basic title of "Instructional Aide" or "Teaching Assistant", with sub assignment designation such as "Teaching Assistant, Special Education." The Commission, in classifying all such positions, will determine subclasses thereof, if any, and additions to the basic title, as well as completing other classification requirements.

CHAPTER 40 – APPLICATION AND EXAMINATION

The Personnel Commission directs that employment decisions be made in such a manner as to ensure equal employment opportunity for all.

No applicant or candidate certified for appointment will be discriminated against on the basis because of the person's actual or perceived characteristics, (including hair textures and protective hairstyles), color, religious creed (including religious dress and grooming practices), sex (including gender, gender identity, gender expression, pregnancy, and breastfeeding, and medical conditions relating to breastfeeding) national origin, ancestry, age (over 40), marital status, physical or mental disability, medical condition, genetic characteristics or information, sexual orientation (including homosexuality, bisexuality, or heterosexuality), military or veteran's status, or any other basis protected by law, or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics.

40.100.0 APPLICATION FOR EMPLOYMENT

40.100.1 Filing of Application

- A. All applications for employment will be made to the Human Resource Services Department, and received on or before the date specified with the Human Resource Services Department.

Applicants filing for more than one examination must file a separate and complete application for each such examination, except as follows for Teaching Assistants. If a candidate is applying for more than one position in the Teaching Assistant career ladder, the candidate may submit a duplicate of their application for each position, or may indicate on the one application the Teaching Assistant classifications for which they are applying.

- B. Federal and State Required Data
Information required for federal and state reporting purposes, including questions regarding ethnicity, sex, age, and/or disability will be answered on a separate form. Such information will not be required until after an employment offer has been accepted. However, questions regarding an applicant's ability to perform the essential job duties, with or without accommodation, may be asked as a part of the hiring process.
- C. Information required for federal and state reporting purposes, including questions regarding ethnicity, sex, age, and/or disability will be answered on a separate form. Such information will not be required until after an employment offer has been accepted. However, questions regarding an applicant's ability to perform the essential job duties, with or without accommodation, may be asked as a part of the hiring process.

D. Conviction Reporting

The application will require that each applicant indicate whether or not they have been convicted of a crime. If an applicant states that they have been convicted of a crime, then such applicant will be required to provide detailed information pertaining to all convictions. An applicant may be disqualified for a conviction which would render them unsuitable for the position as described elsewhere in these rules or as determined by the state department of justice. If it is determined that a candidate has failed to disclose a conviction, they will be disqualified.

40.100.2 General Qualifications of Applicants

Applicants must comply with citizenship and United States of America residence qualifications as specified by law, and possess all other requirements that may be specified in the minimum and/or desirable qualifications established for the class. Every applicant must be in all respects mentally and physically competent to perform all the essential duties of the position for which they apply, with reasonable accommodation for disabilities covered under the Americans with Disabilities Act.

40.100.3 Elimination of Unfit Applicants, Candidates, and Eligibles

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

- A. Failure to meet the general qualifications of the position; Rules 40.100.2 and 30.200.4 D.
- B. Failure to execute the oath of allegiance required by the State of California.
- C. Advocacy of overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.
- D. Conviction either by a plea or verdict of guilty or nolo contendere in a court decision of a sex, narcotics, moral turpitude or mistreatment of children offense, or any other offense that would preclude employment in a public school as defined in Education Codes Sections 44010, 44011, 45122.1 through 45124 and 45125.5, 45126 and as determined by the Department of Justice and FBI.
- E. Criminal, infamous, dishonest, immoral, or disgraceful conduct as interpreted by the Personnel Commission, on a case-by-case basis.
- F. Making a false statement, misleading statement, or omitting a statement as to any material fact on the application form.
- G. Practicing any deception or fraud in connection with an examination or to secure employment.
- H. Controlled substance offense, drug addiction and/or use of intoxicating beverages to excess.

- I. Dismissal from a previous employment for cause if the cause would have subjected the applicant to dismissal from the Sonoma County Office of Education.
- J. Previous dismissal from this office, unless the Commission waives this subsection.
- K. A record of unsatisfactory employment with this County Office, even though separation has not occurred.
- L. Health conditions which would prevent the applicant, candidate, or eligible from successfully performing the duties of the position, with or without reasonable accommodations or health conditions which would clearly endanger their health and safety or the safety of others.
- M. Dishonorable discharge from the Armed Forces of the United States.
- N. Failure to report for duty after an assignment has been offered and accepted.
- O. Failure, after due notice, to report promptly for review of any of the above causes for disqualification.
- P. Refusal to furnish testimony, other than self-incrimination, at a hearing or investigation before the Personnel Commission or Board of Education.
- Q. Attempting to or making contact with any member of the Personnel Commission or Board of Education with the intent of influencing the recruitment, examination and/or selection process in any way. A formal written appeal to the commission following these rules is exempt from this disqualification.

40.100.4 Rejection and Appeal from Rejection

- A. Applicants, candidates, and eligibles disqualified for any of the reasons enumerated in Rule 40.100.3 will be notified, in writing, by the Assistant Superintendent of Human Resource Services. The notification will state:
 - 1. The reason(s) for the disqualification.
 - 2. The length of time the individual will be ineligible to be considered for examination or appointment to a position in the Sonoma County Office of Education.
 - 3. Within seven (7) calendar days of the date of the notification, the individual may appeal to the Assistant Superintendent of Human Resource Services for administrative review. Failure to appeal for administrative review in a timely fashion makes the rejection final and conclusive.
- B. If there has been an administrative review, as provided above, and the rejection is sustained, the individual will be:
 - 1. Provided a written notice outlining the reason(s) for sustaining the rejection, and

2. Informed of their right to submit a written appeal of the rejection and/or the period of disqualification, within seven (7) calendar days of the notification, to the Personnel Commission.
- C. The appeal must be based upon a charge that the rejection constitutes a violation of law or a violation, misinterpretation, or misapplication of the rules of the Personnel Commission, or that the reasons for the rejections are inconsistent with the facts.
1. The facts supporting such a charge will be set forth in the appeal. Upon receipt of a timely written appeal, the Commission will set a date for a hearing at which time the evidence must be considered and the Commission will then render a decision.
 2. The decision will then be transmitted in writing to all concerned and will be final.

40.100.5 Action When Rejection Is Not Sustained

If a rejection is not sustained by the Assistant Superintendent of Human Resource Services or the Personnel Commission, the Assistant Superintendent of Human Resource Services will institute immediate action to ensure the rights of the applicant, candidate, or eligible as if the rejection had not been made. However, appointments made in the interim will not be disturbed, unless they were fraudulently made.

40.100.6 Applications Not To Be Returned

All applications and examination papers are confidential records of the Office of Education, and will not be returned to the applicants.

40.100.7 Applicants' Names Not Made Public

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

40.100.8 Veterans' Preference (Education Code Section 45294, 45295, 45296)

A. A "veteran", as defined in this Rule, will mean an individual who has served at least thirty (30) calendar days of active duty in the United States armed forces in time of war, or national emergency declared by the President of the United States, and who has been discharged or released under conditions other than dishonorable. "Armed forces" is defined as the United States Air Force, Army, Navy, Marine Corps, National Guard, Coast Guard, or a Nurse on active duty with the Red Cross between the dates listed below. Credit will be given for service that occurred between the dates listed below:

1. World War I - April 6, 1917 to November 11, 1918
2. World War II - December 7, 1941 to December 31, 1946
3. Korea - June 27, 1950 to January 31, 1955

4. Vietnam - August 4, 1964 to May 7, 1975
5. Gulf War - August 2, 1990 to Jan 2, 1992
6. More than 180 consecutive days, other than for training, any part of which occurred during the period beginning September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last day of Operation Iraqi Freedom.
7. Any service for which an Armed Forces Expeditionary medal or campaign badge, including Afghanistan, Bosnia, El Salvador, Lebanon, Grenada, Panama, Southwest Asia, Somalia, and Haiti was awarded.

In order to obtain credit, the applicant will furnish the Assistant Superintendent of Human Resource Services with the original, certified, or photographic copy of their honorable discharge or certificate of honorable active military service (DD Form 214) or other acceptable evidence of required military service prior to establishment of the eligibility list. No adjustment of rank on the list will be made when such proof is presented after an eligibility list has been established. (See Rule 50.200.2)

- B. A veteran, with the exception of a disabled veteran, will have an additional five (5) points added to their final passing score in any examination.
- C. A disabled veteran will have a total of ten (10) additional points added to their final passing score in any examination. A disabled veteran is an individual classified by the U.S. Veterans Administration to be ten percent (10%) or more disabled as a result of service in the Armed Forces of the United States.

40.200.0 EXAMINATIONS (Education Code Section 45261)

40.200.1 Announcement of Examinations

The Personnel Commission will direct and administer the holding of examinations for the purpose of filling vacancies or creating eligibility lists for the classified service.

40.200.2 Prior to Examination Announcement

No examination announcement may be made and no part of any examination may be held for a new position until the Superintendent or designee has properly approved the recruitment for the position. and the Commission has approved the position classification, including the establishment of minimum qualifications and/or desirable education and work experience requirements, except in exigent circumstances (i.e., to meet an urgent deadline). In such exigent circumstances, the position announcement must clearly indicate details about the anticipated approval.

40.200.3 Promotional Examinations (Education Code Section 45272)

Examinations will, as determined by the Assistant Superintendent of Human Resource Services, be limited to promotional applicants.

When no promotional field of competition exists or when there is doubt of its adequacy, the Assistant Superintendent of Human Resource Services may authorize open examinations or simultaneous open and promotional examinations. Promotional examinations will be restricted to regular employees of the Office of Education who meet the prescribed qualifications of the class.

Performance evaluations prepared by the immediate supervisor and reviewed by the employee, may be considered in evaluating an employee's fitness for promotion.

40.200.4 Notice of Examination

- A. Whenever it is necessary to fill existing or anticipated vacancies in the classified service and an appropriate employment list does not exist, as determined by the Assistant Superintendent of Human Resource Services, they will announce and schedule an examination to identify additional eligibles. Except in unusual circumstances, at least ten (10) working days' advance public notice of such examinations will be given. The notice will contain the following facts:
1. Information concerning the location of employment and other conditions of employment;
 2. Description of the scope of duties and responsibilities of the position and the class;
 3. Minimum and/or desirable qualifications required;
 4. The salary, benefits, and other forms of compensation;
 5. The closing date for filing an application;
 6. The general content of the examination and the weights given to the various types of the examination; and
 7. Other information that will assist the employees and the public in fully understanding the nature of the employment and procedures necessary to participate in the examination.

40.200.5 Who May Compete

- A. Competitive examinations for positions in the classified service will be open to those applicants who meet the minimum qualifications and who are not rejected, as provided in Rule 40.100.3, except at the discretion of the Assistant Superintendent of Human Resource Services examinations may be restricted to promotional candidates.
- B. Age will not be a factor in admitting applicants to examinations, unless there is a minimum age required by law.

40.200.6

Character of Examination

- A. Examinations may be written, oral, and/or in the form of a practical demonstration of skill and/or ability
- B. Unassembled examinations (application appraisals) may be used to evaluate and measure the extent, relevance, level, progression, and quality and quantity of experience and education of the candidates by reference to the applications for employment, or other evidence of professional standing, as submitted by the candidate.
- C. Background investigation of education, experience, character, loyalty, or identity to include records of arrests and tests of technical knowledge, manual skill, and mental fitness, which, in the judgment of the Assistant Superintendent of Human Resource Services, serves this end, may be employed.
- D. A physical and medical examination to determine a candidate's ability to perform the duties of the position may be required. Such examinations will be performed under the direction of a licensed physician or Nurse Practitioner selected by the County Office. Failure to pass such an examination will be disqualifying. All records of such examinations will be considered confidential. (See Rule 80. 300.1.)

40.200.7

Examination Procedures

- A. Examinations will be administered objectively, and will consist of at least two (2) independent parts. (Education Code Section 45273.)
- B. All qualified applicants who have applications on file at the time of examinations will be notified and must take the test on the prescribed date, unless other arrangements are approved by the Assistant Superintendent of Human Resource Services.

Failure to report for the announced examination will result in the application being withdrawn from consideration, unless excused, in writing, by the Assistant Superintendent of Human Resource Services.

- C. The Assistant Superintendent of Human Resource Services will establish for each written, oral, unassembled, and performance examination a minimum passing grade, which will be set forth in the examination bulletin.

Failure by any candidate to attain the minimum passing grade in any portion of an examination will eliminate the candidate from competition in any further portion of the examination. Any candidate so eliminated will be notified promptly in writing.

- D. When written examinations are required, none of the test papers will disclose the name of candidates until all papers in a given examination will have been marked and graded. Copies of the test questions must not be made by candidates or other unauthorized persons.
- E. For classes requiring oral examinations, the oral interview committee will consist of at least two (2) members. The oral examination will confine itself to evaluating

general fitness for employment in the specific classification, unless a requirement exists to evaluate the candidates' technical knowledge and skills, and this is so indicated on the Position Opening Announcement.

When the oral examination evaluates technical knowledge and skills, at least two (2) members of the committee will be technically qualified in the specific occupational area.

The proceedings of all oral examinations will be electronically recorded. Scores achieved by the candidates on other parts of the examination will not be made available to the oral examination committee. (Education Code Section 45273.)

- F. For each unassembled examination, consisting of an application appraisal as part of the selection process, the Assistant Superintendent of Human Resource Services is required to appoint a review panel as required. At least two (2) members of the panel will be technically familiar with the positions to be filled. An unassembled examination will be scored and ranked so that a determination can be made of the candidates who are successful and who may compete in further examinations. Unsuccessful candidates, if any, will be eliminated from further competition, and so notified promptly in writing.
- G. The Assistant Superintendent of Human Resource Services may designate examinations for certain specified classes as continuous examinations. When so designated, these examinations will be promoted under similar conditions and techniques as previous examinations for the same class, and the resulting eligibility list may be merged with previous lists for the class in the relative order of merit of the eligibles.
- H. The Assistant Superintendent of Human Resource Services may accept the records of typing and/or keyboarding performance tests given by County, State, or other qualified agencies when test administration standards deem appropriate.
- I. Examinations may be scheduled and conducted as a promotional examination only, as an open examination only, or as a promotional and open examination. Any regular employee, who meets the announced qualifications as presented on the position announcement bulletin, will be authorized to compete in an examination.
- J. Ratings of candidates competing in an examination will be made on forms prescribed by the Assistant Superintendent of Human Resource Services, and must be signed by each rater. All final marking must be in pen and will be delivered to the Assistant Superintendent of Human Resource Services, or their designee. Reason(s) for disqualification will be noted on the rating form by the rater.
- K. Each candidate may be required to provide proof of identification in order to participate in a written exam.
- L. A candidate in any examination who places an identifying mark or marks upon test papers, other than the identifying mark prescribed at the time of the exam, or makes an attempt to disclose to others the identity of the candidate's papers prior to completion of the exam will be disqualified.

- M. A candidate in an examination who attempts to bring answers into an exam or to share answers with another candidate will be disqualified.

40.200.8 Examination Weighing

The relative weights of the different types of examinations and the required minimum passing grades will be determined by the Assistant Superintendent of Human Resource Services and set forth in the Position Opening Announcement of the examination. Failure by a candidate to obtain the minimum passing grade in any portion of an examination will eliminate the candidate from competition in any further portion of the examination. Any candidate so eliminated will be notified promptly in writing. All examination papers will be prepared or approved by and rated under the direction of the Assistant Superintendent of Human Resource Services.

40.200.9 Rating Required

Candidates may be required to attain a designated minimum rating in each part or in combined parts of the examination to qualify for participation in the next succeeding part.

40.200.10 Review and Protest of Examination (Education Code Section 45274)

- A. When the written test papers of all candidates have been rated, each candidate will be notified by mail of their grade on the written test, the results of any other tests taken by the candidate, and the final score indicating their rating on the employment list.
- B. Within the first five (5) working day period immediately following the mailing of the notice of the examination results to the candidates, any candidate may make an appeal, in writing, protesting the results of the examination to the Assistant Superintendent of Human Resource Services on the basis of any one or more of the following:
 - 1. Erroneous scoring of examinations;
 - 2. Unfair or improper conduct of an examination;
 - 3. Fraud, bias, or error in a rating resulting from an oral, unassembled, performance, or medical examination.
- C. Notwithstanding the provisions of paragraph B above, copies of test keys for form tests or repetitive tests will not be made available for review by any candidate, nor will the individual ratings given candidates by members of a Qualifications Committee be made available to the candidate.
- D. An appeal will state, in writing.
 - 1. The specific nature of the protest;
 - 2. The item or incident to which it refers; and

3. The reasons why the applicant filing the appeal believes their ratings should be adjusted.

Appeals on this basis will be accepted only if delivered to the Human Resource Services Department or postmarked during the first five (5)-working day period following the date of mailing of the final examination results to the candidates.

- E. The Assistant Superintendent of Human Resource Services must immediately investigate any appeal received during the appeal period and may adjust the final ratings of the affected candidates if the appeal is upheld. If they do not uphold the appeal, they will, at the request of the candidate, refer it to the Personnel Commission with their recommendations. The Personnel Commission will act on all appeals within ten (10) working days after receipt of the information from the Assistant Superintendent of Human Resource Services. No appointments from an established employment list will be made during the protest period, or in the event of an appeal during the time an appeal is under consideration by the Assistant Superintendent of Human Resource Services or the Personnel Commission.

40.200.11 Seniority Credit

In promotional examinations only, seniority credit will be added to the final passing scores of candidates, who have permanency with the County Office or who are on a valid re-employment list, in the amount of five one-hundredths (.05) of one (1) point for each month of service, not to exceed a total of five (5) points (100 months). Credit will be granted for time spent in regular status (see definition) in the classified service, including authorized leave with pay. (See Rule 50.200.2.)

40.200.12 Ties in Examination Scores

When two (2) or more candidates in an examination have the same final examination score, the candidates will be certified as having the same ranking on the Employment List.

40.200.13 Notice of Final Score

Each candidate will be notified of the results of each portion of the examination, any additional, or seniority credit and their standing on the employment list, if qualified. Any candidates who do not receive a passing score will be notified of their disqualification and the reasons therefore.

40.200.14 Examination Records

Examination test scores remain confidential information and any release of such information will only be made to those Human Resource Services employees with a business need to know such information. Only information pertaining to a candidate's own score and ranking on an employment list will be released to the candidate. Release of the scores or ranking of other candidates is strictly forbidden.

No candidate may copy any portion of any examination records or materials made available for their review, without authorization from the Assistant Superintendent of Human Resource Services. Unauthorized copying may result in removal from employment lists, dismissal from employment with the Sonoma County Office of Education, and/or exclusion from future employment.

40.200.15 Retention of Examination Records and Applications (Education Code Section 45300)

- A. Applications of candidates must be retained for the duration of the employment list (one year) and will only be made available for inspection by the Superintendent or their delegated representatives to whom the candidates may be certified. Applications of those candidates appointed will be filed with the reports of their appointments. Applications for those candidates not appointed may be destroyed after expiration of the employment list.
- B. Answer sheets, test keys, and other examination records must be retained for the duration of the employment list, and thereafter for a period of time to be determined by the Assistant Superintendent of Human Resource Services.
- C. All examination records and related papers are the property of the Personnel Commission. They will be confidential records, which may be inspected or copied only under such conditions as may be specified by the Personnel Commission, the Assistant Superintendent of Human Resource Services, or competent judicial authority.

40.200.16 Appeal Hearing Procedure

- A. An appeal will state in writing the specific nature of the protest including:
 - 1. The item or incident to which it refers;
 - 2. The reasons, as provided in the Merit Rules, why the candidate or employee believes the decision of the Superintendent, or designee, is biased, erroneous, abuse of discretion, or based on illegal discrimination;
 - 3. What should be adjusted; and
 - 4. A brief statement of the evidence the appellant will offer as proof.
- B. Hearings must be conducted in the manner most conducive to determination of the truth, and the Commission will not be bound by technical rules of evidence. Decisions made by the Commission will not be invalidated by any informality in the proceedings.
- C. The Personnel Commission must determine the relevancy, weight, and credibility of testimony and evidence. It will base its findings on the preponderance of evidence.
- D. Each side will be permitted an opening statement (appellant first) and closing arguments (Superintendent or designee first). The appellant will first present their witnesses and evidence to sustain the appeal, and the Superintendent or designee will

then present their witnesses and evidence in support of the Superintendent's determination or action.

- E. Each side will be allowed to examine and cross-examine witnesses.
- F. Both the Superintendent or designee and the appellant will be allowed to be represented by legal counsel or other designated representative.
- G. Whether the hearing is held in a public or closed session, the Commission, after it concludes the hearing, may deliberate its decision in closed session. No persons other than members of the Commission, its counsel, and its staff will be permitted to participate in the deliberations. If the Assistant Superintendent of Human Resource Services or any staff is not serving full-time for the Commission and/or was a witness in the proceedings, they will also be barred from the Commission's final deliberations. If the Commission's counsel also served as counsel for the employer, that counsel will be barred from the Commission's final deliberations.
- H. The Commission will render its judgment as soon after the conclusion of the hearing as possible, and in no event later than ten (10) calendar days after the conclusion of all proceedings. The Commission's order of judgment will be reviewed and signed by the Chair of the Commission and then distributed to the appellant and the Superintendent, and will set forth the Commission's findings and decision. If the Superintendent's action is not sustained, the Commission's decision will set forth the effective date of the action ordered by the Commission.
- I. If a court reporter is present during the hearing, the appellant or their representative may obtain a copy of the transcript of the hearing, upon written request and agreement to pay for necessary costs.

CHAPTER 50 – EMPLOYMENT LISTS AND APPOINTMENTS

50.100.0 EMPLOYMENT LISTS

(Education Code Sections 45272, 45286, 45291, 45292, 45298, 45300)

50.100.1 Types of Lists Defined

Continuous Recruitment: An ongoing recruitment for a classification where a list is created periodically to fill vacancies. Old lists, which have not expired, are combined with new lists, with candidates ranked by their overall scores.

Merged Promotional/Open: One list of all eligibles resulting from a single examination, including seniority points and/or veteran points, as applicable.

Open: A list of eligibles resulting from an examination open to all qualified applicants.

Promotional: A list of eligibles resulting from an examination which is limited to only qualified, permanent employees.

Re-employment: A list of employees who have been laid off from permanent positions, voluntarily demoted in lieu of layoff, lost their position due to exhaustion of leave for medical reasons, or return from military duty under the conditions set forth in these rules and the Superintendent policies. Eligibles on the re-employment list take precedence over other eligibles, such as eligibles from an open recruitment.

Other Re-employment:

- A. A separate re-employment list for employment in the Extended School Year (ESY) will be maintained as needed to fill ESY positions.
- B. A separate re-employment list for Limited-Term Intermittent Assignments in the SHAPE program will be maintained as needed and used as provided by these rules.
- C. A separate re-employment list for Limited-Term Temporary Support Assistant will be maintained as needed and used as provided by these rules.

50.100.2 Establishment of Employment List

After an examination, the Assistant Superintendent of Human Resource Services will arrange the names of successful candidates on a list in the order of examination score, plus additional points where applicable.

- A. An eligibility list will contain the following information:
 1. The type(s) of List(s): open, promotional, or merged open and promotional, re-employment, or transfer;
 2. The names of all eligibles in final rank order of total examination scores, including any additional points such as promotional or veterans, if applicable;

3. The expiration date of the list and of each candidate on the list;
 4. The signature of the Assistant Superintendent of Human Resource Services, or designee, attesting to the accuracy of the list.
- B. Unless specifically authorized in these rules, all appointments to positions in the Classified Service will be made from eligibles whose names appear on eligibility lists.

50.100.3 Duration of Employment Lists

- A. The Employment List resulting from open or promotional examinations for each classification will be in effect for one (1) year or six (6) months, unless exhausted, and may be extended not to exceed one (1) additional year, at the discretion of the Assistant Superintendent of Human Resource Services. Names of subsequent successful candidates may be added to Employment Lists resulting from continuous examinations or merged lists. (See Rule 40.200.7G.)
- B. Eligibility list may be established for a period of six (6) months upon the approval of the Assistant Superintendent of Human Resource Services so long as the six (6) months duration of such a list is noted in the recruitment bulletin announcing the examination.

50.100.4 Re-employment Lists (Education Code Section 45308)

- A. There will be established for each class, as necessary, a re-employment list, which will take precedence over all other Employment Lists in appointment. This list will contain the names of all regular probationary and regular classified employees who have been laid off or demoted from any position because of lack of work or lack of funds. Employees who acquire leaves of absence for military reasons and those who are ordered, pursuant to the laws of the United States, to serve in any civilian war effort or war industry will take precedence by having their names placed over other names on the reemployment list in any given class.

An employee who takes a long term limited-term assignment, voluntary demotion, or voluntary reduction in assigned time in lieu of layoff, will retain eligibility for re-employment for an additional twenty-four (24) months, provided the same examinations for selection under which they qualified for appointment still apply, as determined by the Personnel Commission.

- B. Other Re-Appointment List for Extended School Year Employees
A separate Other Re-appointment List for Extended School Year employees will be maintained on an ongoing basis for each classification, which has been used for an Extended School Year position. Each Extended School Year employee who has performed satisfactorily for twenty (20) work days or more within the Extended School Year session, will have their name placed on the Re-appointment List for consideration of reappointment as an Extended School Year employee.

The name of the Extended School Year employee will remain on the Re-appointment List until the Extended School Year employee refuses three offers of employment,

notifies the County Office that they wish their name removed from the list, or is hired into a regular position. Reappointment is not guaranteed. Reappointments will be done on a case-by-case basis, taking into account the program needs and skills of each Extended School Year employee.

Each Extended School Year employee, whose name appears on the Re-appointment List, will be required to complete a new application for subsequent appointment to an Extended School Year position.

Each Extended School Year employee, whose name appears on the Re-appointment List, will be required to complete an oral examination for subsequent appointment into an Extended School Year position in the same classification. An oral examination is also required for appointment to a classification the employee has not previously held.

C. Other Re-Appointment List for Intermittent Assignments

A separate Other Re-Appointment List for Limited-Term Intermittent Assignments will be maintained on an ongoing basis for School and Home Autism Program through Education, (SHAPE) Assignments with a duration of less than 1040 hours.

Each regular Special Education Teaching Assistant who is assigned to work six (6) hours per day or more, and who has performed satisfactorily in the SHAPE program for twenty (20) work days for more, will have their name placed on the re-appointment list for consideration of reappointment to a Limited-Term Intermittent Assignment.

The name of such Teaching Assistant will remain on the re-appointment list until the employee refuses three offers of Intermittent Assignment or the employee notifies the County Office that they wish their name removed from the Limited-Term Intermittent Assignment list. Reappointment is not guaranteed. Reappointments will be done on a case-by-case basis, taking into account the program needs and the skills of each employee.

D. Other Re-Appointment List for Temporary Support Assistant

A separate Other Re-appointment list for Temporary Support Assistants will be maintained on an ongoing basis for assignment to positions within the Special Education Program. Reappointments will be done on a case-by-case basis, taking into account the program needs and the skills of each employee.

50.100.5 Termination of Employment Lists

Notification is not required when an eligibility list expires.

- A. An Employment List is automatically terminated one (1) year, or six (6) months, from the date of its approval, unless previously extended prior to its expiration by the Assistant Superintendent of Human Resource Services.
- B. An Employment List is automatically terminated when no eligibles remain on the list.

- C. An Employment List is automatically terminated when a new list for the class is established.

50.100.6 Consolidation of Employment Lists (Education Code Section 45291)

If a new examination for a class is given during the life of an existing list, the examination will be sufficiently similar to the previous examination to ensure the comparability of the scores of eligibles. The new list will then be merged with the existing list, with eligibles ranked in the order of examination score, plus additional points where applicable. (See Rule 40.200.6.)

50.100.7 Employment after Appointment

- A. An Employment List will be used for full-time, part-time, and limited-term assignments in the class. An eligible who accepts part-time employment will continue to be eligible for full-time employment, and an eligible who accepts limited-term employment will continue to be eligible for regular employment.
- B. A Re-appointment List for Extended School Year employees will be used for appointment to an Extended School Year position, unless no Re-appointment List for the classification exists, in which case a regular employment list will be used.

50.100.8 Removal of Names from Employment Lists

- A. The name of an eligible may be removed from an Employment List or withheld from certification for any of the following reasons:
 - 1. A written request by the eligible for removal;
 - 2. Failure to respond within three (3) days from the date of mailing an inquiry regarding availability for employment;
 - 3. Any of the causes listed in Rule 40.100.3 above;
 - 4. Termination of employment (Promotional Employee List);
 - 5. Failure to respond for a scheduled interview after certification;
 - 6. Misrepresentations or willful omissions of fact related to the applicant's suitability for employment;
 - 7. Failure by the applicant to keep their mailing, email address and/or telephone number information current with the Human Resource Services department;
 - 8. A substantiated record of unsatisfactory service with the County Office or other employer(s), unsatisfactory service discovered through reference checks, or because of resignation in lieu of dismissal from the County Office or another employer. By applying for employment with the County Office the applicant agrees to release from all liability persons and organizations reporting

information required in order to determine acceptability for employment, and waives any agreement to keep such job performance issues confidential.

- B. Subject to ratification of and appeal to the Commission for reconsideration per Rule 40.100.4, the name of an eligible may be removed from an Employment List by the Assistant Superintendent of Human Resource Services for any of the following reasons:
 - 1. Two (2) waivers of consideration for selection (refusing certification) or an offer of regular employment except that waivers relating to part-time or limited-term appointments will not be counted for the purpose of this sub rule.
- C. Notification of Removal from Employment List: The Commission will notify the eligible of the action taken and the reason(s). The notification will also provide the person an opportunity to appeal the decision to the Commission within five (5) days of the date of the notice. The notice will be sent to the last known address of the person. The decision of the Commission will be final and binding on all parties.

50.200.0 CERTIFICATION FROM EMPLOYMENT LISTS

50.200.1 Order of Precedence of Names

Names will be certified for appointment from Employment Lists in the following order:

- A. Reemployment List (one (1) name). (Education Code Sections 45308 and 45309.)
- B. Promotional Employment List (first three (3) names or first three (3) ranks) with valid transfer or reinstatement request. (Education Code Section 45272 and Rule 50.200.6 C.)
- C. Open employment (first three (3) names or first three (3) ranks) with valid transfer or reinstatement request. (Education Code Section 45272 and Rule 50.200.6 C.)

50.200.2 Employment Lists

- A. Rule of Three Ranks:

Eligibles will be placed on the eligibility list in rank order according to their final score. The final score of candidates will include seniority and/or veteran's points if applicable, and will be rounded to the nearest whole percent. All eligibles with the same score will be placed in the same rank. Certification from the list will be the first three (3) ranks of eligible who are ready and willing to accept the position(s) to be filled.

In the event that there is more than one authorized position in the class to be filled. The Assistant Superintendent of Human Resource Services will certify additional ranks of eligibles to allow two more ranks than the number required to fill the number of vacancies.

For classes approved for continuous recruitment, certification will be made at the time the Assistant Superintendent of Human Resource Services can first reasonably certify the number of ranks necessary to fill the vacancy or vacancies.

B. Promotional Employment Lists

1. The names of candidates successful in promotional examinations will be placed on Promotional Employment Lists in the order of their final examination scores, as determined in the manner provided herein for Open Employment Lists.
2. Upon request of the Superintendent and approval by the Assistant Superintendent of Human Resource Services, the Promotional Employment List may also include the names of County Office employees whose names appear on the Open Employment List for the same class.

C. Open Employment Lists

1. The names of candidates successful in open examinations will be placed on Open Employment Lists in the order of their final examination scores, beginning with the highest score, as determined in the following manner:
 - a. For each candidate who attains the announced minimum passing grade on each portion of the examination, the grades on all portions will be combined in accordance with the announced weights;
 - b. For each candidate who qualifies for veteran's preference, five (5) points will be added to their combined score;
 - c. For each such candidate who provides evidence that proof of their disability is a result of the military service is on record in the United States Veterans Administration, an additional five (5) points will be added to their combined score (See Rule 40.100.8);
 - d. For each candidate who has regular status in the classified service, five one-hundredths (.05) of one (1) point will be added to their combined score for each month of continuous regular status service as computed to the date the Employment List is approved, to a maximum of five (5) points;
 - e. The final examination score for each candidate will be a whole number of points, not to exceed one hundred (100) points. For this purpose, each score which is greater than a whole number by four hundred forty-five one-thousandths (.445) will be counted as the next greater whole number. Each score which is greater than a whole number, but less than four hundred forty-five one-thousandths (.445) will be counted as the nearest whole number.
2. Under the conditions listed in a. through e. below, the name of an individual who has held regular status in the classified comparable class in the Sonoma County Office of Education Merit System, in a public agency operating a Civil Service or Merit system recognized by the California County Merit System, or in the case of a program transfer to the County Office, a local school district will have access to the Open Enrollment List.
 - a. The class for which the list is approved possesses the same or lesser minimum qualifications as the class in which the individual has held regular status;

- b. The individual has been employed by the other agency within one (1) year prior to the date the list is approved;
 - c. The individual achieved their regular status as the result of a qualifying or competitive examination;
 - d. The record of the individual has been entirely satisfactory, and they have not been separated, nor are they being considered for separation, due to fault or delinquency on their part;
 - e. There is written information submitted by the other public agency and on file in the Human Resource Services Department confirming that the required conditions have been met and stating that the individual is eligible for reemployment or continued employment in the class in which they hold regular status.
3. When the name of a qualified candidate has been removed from the Employment List in accordance with Section 50.200.9 A. of these Rules, and the candidate then informs the Assistant Superintendent of Human Resource Services in writing that they are available and willing to accept employment, their name may be placed on the Employment List in the same standing in which it appeared at the time of its removal.
 4. When appointed to a position with the County Office, with approval of the Superintendent, an employee whose name appeared on the employment list due to a program transfer, will be allowed to have their service with the transferring district counted in determining step placement on the salary range for the Sonoma County Office of Education classification.
- D. The names of Extended School Year employees, with twenty (20) work days or more of satisfactory performance within the Extended School Year Session, will be placed on the Re-appointment List in alphabetical order, with all names having the same standing. The entire list will be provided to each administrator making an appointment to an Extended School Year position.

50.200.3 Procedure When Fewer Than Three (3) Names Remain

- A. When fewer than three (3) eligibles are available on the promotional list, sufficient names may be certified from the open list to allow a choice among three (3) eligibles.
- B. When fewer than three (3) eligibles are available for certification, the available eligibles will be certified; however, prior to conducting a final hiring interview, the appointing authority may choose not to appoint any of them and may request a new examination to produce a new consolidated Employment List. (See Rule 50.100.4)

If a new examination is conducted, the hiring interview will be conducted using the consolidated list. (See Rule 50.100.4.)

50.200.4 Other Sources of Eligibility

In the absence of a Reemployment List for a class, a vacancy may be filled by transfer, demotion, reinstatement, reemployment within thirty-nine (39) months (after resignation), restoration to former class after voluntary demotion, or other means provided in the Rules without regard for existence of eligibility lists. (See Rule 50.100.2.)

50.200.5 Waivers of Certification

- A. An eligible may, without penalty, make themselves unavailable for certification to specific locations or shifts and part-time positions and to limited-term or permanent positions by notifying the Human Resource Services Office, in writing in advance of certification.
- B. Certification of eligibles who have made themselves unavailable will not be made. However, eligibles may revise or withdraw their unavailability, in writing, during the lifetime of the Employment List.
- C. An available eligible may waive certification once without penalty. At the time a second waiver is to be signed by an eligible, they will be informed that, upon signing the second waiver, their name will be removed from the eligibility list per Rule 50.100.8.

50.200.6 Procedure of Certification and Appointment From Employment Lists

(Education Code Section 45272)

- A. When a position is to be filled, the Department Head will notify the Assistant Superintendent of Human Resource Services of that fact and of the date of the anticipated need. The request for certification will state the class title, hours, location of employment, and other pertinent information as required by the Director.
- B. The Assistant Superintendent of Human Resource Services will ascertain the availability of eligibles and will certify the top three (3) names/ranks to the Department Head, in accordance with these Rules.
- C. In examinations final scores of candidates will 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 will be made from the eligibles having the first three (3) ranks on the list who are ready and willing to accept the position.
- D. Within five (5) working days of the hiring interview, the Department Head will make their selection from the persons certified and will notify the Director, who will see that the necessary employment procedures are carried out and candidates are notified of results.
- E. If a candidate who has been certified as eligible for appointment to a position fails to keep his interview appointment, or at the time of interview declines the position, the

Department Director may make their selection from the remaining certified eligibles or may request additional certification in accordance with Rule 50.200.7.

50.200.7 Certification of Additional Eligibles

- A. If, after certification of eligibles, the Department Director desires certification of the additional eligibles, pursuant to Rule 50.200.6 E, the Assistant Superintendent of Human Resource Services will be notified and advised of reasons therefore.
- B. When the request is received, the Assistant Superintendent of Human Resource Services must immediately investigate the matter to determine if the request is valid and, specifically, to determine if the appointment refusal was voluntary on the part of the concerned eligible.
 - 1. If the Assistant Superintendent of Human Resource Services finds the request to be valid, they will:
 - a. Certify additional eligibles as may be required;
 - b. Remove from the eligibility list, at their discretion, the names of eligibles who failed to report for interview or who refused appointment, and notify the eligibles of their action and their right of appeal to the Commission.
 - 2. If the Assistant Superintendent of Human Resource Services finds that a refusal of appointment was not voluntary and free of any type of duress, they will:
 - a. Notify the Department Head of their findings and refuse to certify additional eligibles, citing the provisions of this Rule;
 - b. Refer the matter to the Personnel Commission, together with their findings and recommendations, which may include suggested action under Education Code Section 45317;
 - c. Advise the Department Head of the date of his report to the Commission in order to enable appropriate representation.

50.200.8 Certification from List for another Class

If there is no eligibility list for the class in which the vacancy occurs, certification may be made from a list for another class at the same or a higher salary level if:

- A. The duties and qualifications of the class for which the examination was given include substantially all of the duties of the position to be filled.
- B. The Assistant Superintendent of Human Resource Services finds that the use of the list is in the best interest of the Office of Education, and
- C. The necessary skills and knowledge were adequately tested in the examination.

50.200.9 Withholding Names from Certification

The name of an eligible may be withheld from certification by the Assistant Superintendent of Human Resource Services when the eligible:

- A. Expresses unwillingness or inability to accept appointment. (See Rule 50.200.5)
- B. Fails to respond within three (3) business days following the mailing of written inquiry regarding availability.
- C. Fails to present themselves for duty at the time agreed upon after having accepted an appointment.
- D. Cannot be reached in time for appointment when immediate temporary employment is required.
- E. Fails to present the license, registration, certificate, or any other credential required. (The name of any such eligible will be restored by the Assistant Superintendent of Human Resource Services for certification when the particular requirement has been met.)
- F. For any reason listed in Rule 40.100.3.

50.200.10 Restoration to Certification

A. When the name of a person has been withheld from placement on an Employment List or from certification, or has been removed from the list the Assistant Superintendent of Human Resource Services may subsequently approve placement on or restoration to the list under the following circumstances:

- 1. When the withholding or removal was because:
 - a. Of the waiver or inability of the eligible to accept employment; or
 - b. Of a failure of the eligible to respond to an inquiry as to their availability to appear for interview; or
 - c. Of a failure of the eligible to present themselves for duty; or
 - d. The eligible presents a good and valid reason, and certifies to the Assistant Superintendent of Human Resource Services that they are now willing and able to accept appointment.
- 2. When the withholding or removal was for a reason stated in Rule 40.100.3, and such action was determined improper or the issue has since been corrected.

B. As provided in Rule 50.200.9 E.

50.200.11 Promotional Certifications

- A. When the incumbent of an alternate position qualifies for promotion to a different alternate class to which their position is classified, they may be certified for promotion, at the request of the Superintendent, without regard to their standing on the Employment List.
- B. When one or more employees qualify for promotion within the same department in which they are employed, a certification, which includes their names, may be limited to such employees, at the request of the Superintendent.

50.200.12 Selective Certification

If a position within a classification requires a special skill, license, certification, or language requirement, the Assistant Superintendent of Human Resource Services will determine which eligibles possess the required skills, license, certification, or language, and will certify the first three (3) ranks of eligibles who meet the special requirement(s).

If there are insufficient eligibles who meet the special requirements and who are ready and willing to accept the position, a provisional appointment may be made, pending completion of a recruitment and examination process to fill the specialized assignment.

50.200.13 Subjects Regarding Which No Questions Will Be Asked

No questions or examination procedure will be employed that serve to discriminate against any applicant or any eligible whose name has been certified for appointment on the basis of political or religious opinions or affiliations, race, religious creed, color, ancestry, national origin, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, sex, sexual orientation, gender, gender identity or gender expression.

There will be no questions regarding an applicant's disability. If an applicant requests accommodation for a disability, such accommodation request will be referred to the Assistant Superintendent of Human Resource Services.

50.200.14 Duties of Eligibles

It will be the duty of every eligible to respond promptly to a notice of oral exam, hiring interview or offer of employment. The eligible will be expected to respond within three (3) working days. Failure to respond within the above timeframe may result in removal from the employment list.

Each eligible is required to keep the Human Resource Services office informed as to their current home address, email, and phone number where they may be reached to schedule employment interviews. Failure to keep such information current may result in the eligible being removed from the employment list. In such a case a letter will be sent to the last known address of the eligible, informing them of the removal from the list and

their right to be reinstated should current information be provided within five (5) days of the date of the letter.

50.200.15 Reporting for Duty

Normally, an eligible selected for a permanent assignment is expected to report for duty at the end of two (2) weeks from the date of the offer. The appointing authority may allow a period longer than two (2) weeks at its discretion. An eligible who is unable or unwilling to report for duty at the end of a two (2) week period (one full month in the case of a management class) may be considered to have refused employment, unless there is a mutual agreement for a longer transition period. If an eligible has refused employment through failure to report for duty, the appointing authority may request certification of additional eligibles.

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

The date of the offer of employment will be the date on which the Human Resource Services department notified the eligible regarding the appointment. Such contact may be by telephone, email, or registered or certified mail.

50.300.0 PROCEDURES FOR SELECTION (Education Code Sections 45160, 45161 and 45272)

50.300.1 Regular Appointment

The appointing authority will interview the top three ranks certified from an appropriate employment or eligibility list. Appointments will be made from eligibles having the first three (3) ranks on the list who are ready and willing to accept the position(s).

Upon selection, each prospective employee will receive the official offer of employment by the Human Resource Services Office, conditional upon meeting pre-employment conditions, including fingerprint clearance, TB clearance and physical exam, if required.

The conditional employment offer will include the time and date to report for duty and the salary at time of hire. Appointment to the position will be subject to review by the Personnel Commission, if needed, to determine that the employee was hired pursuant to these Rules and the Education Code.

50.300.2 Nepotism: Gov. Code Section 12940

The Commission's rule governing the employment of immediate family in classified positions is intended to establish a minimum exclusion regarding supervisor/subordinate relationships. No person will be appointed or assigned to a position in any department in which such persons immediate relative holds a position, when such employment would result in any of the following:

- A. A supervisor-subordinate relationship.

- B. The employees have job duties, which require performance of shared duties on the same or related work assignment.
- C. Both employees have the same immediate supervisor.

For purpose of this Rule, immediate family or relative will include the father, mother, grandparents, or grandchild of the supervisor/administrator or their domestic partner or spouse, as well as the spouse's son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, or any person residing in the immediate household of the supervisor or administrator.

50.400.0 PROVISIONAL APPOINTMENT

50.400.1 Restrictions

- A. The appointing authority may make a provisional appointment when the Assistant Superintendent of Human Resource Services certifies that:
 - 1. No eligibility list exists for the class; or
 - 2. An eligibility list exists, but there is an insufficient number of available eligibles (i.e., less than three (3) and the appointing authority refuses to appoint an available eligible.)
- B. An employee may receive a provisional appointment or appointments, which may accumulate to a total of ninety (90) working days, after which a ninety (90) calendar day interval must then elapse, during which they will be ineligible to serve in any full-time provisional capacity.
- C. Provisional appointees will be required to meet the minimum qualifications for the class of the appointment, as stated in the class specifications
- D. Notwithstanding rules A. and B., above, the Commission may extend the ninety (90) working day provisional appointment for a period not to exceed thirty-six (36) additional working days, provided:
 - 1. An examination for the class was completed during the initial ninety (90) workdays of the employee's provisional assignment;
 - 2. Satisfactory evidence is presented indicating:
 - a. Adequate recruitment efforts have been and are being made;
 - b. Extensions of this provisional assignment are necessary to carry on vital functions of the County Office;
 - c. The position cannot be satisfactorily filled by use of the eligibility list or other Employment Lists or procedures, such as reinstatement, transfer, or other appropriate eligibility lists.

50.400.2 Emergency Appointments

- A. If it should become necessary in time of emergency to fill positions in the classified service to prevent the stoppage of public business, the Superintendent may make emergency appointments, without reference to eligibility lists, for a period not to exceed fifteen (15) working days.
- B. When such emergency appointments are made by the Superintendent, the Assistant Superintendent of Human Resource Services will be notified in writing, naming the appointee or appointees, date of appointment, and nature of duties performed, and giving a statement justifying the emergency nature of such appointments. Time served under such emergency appointments will be considered as part of the period permitted under the Education Code and Rules for provisional appointments.

50.400.3 Limited-Term Appointments

(See Rule 60.400)

- A. Whenever the Superintendent will require the appointment of a person to fill a position, the duration of which is not to exceed six (6) months, or to complete a special project, or to fill a position in lieu of an absent employee for a period not to exceed the authorized absence of said employee, they will submit a request for a limited-term appointment in which the probable duration of the appointment is stated, and if applicable a description of the special project service. Eligible candidates will be certified in accordance with their positions on the appropriate Employment Lists and their willingness to accept appointment for the probable duration stated.

For purposes of these rules, a special project or service is defined as a project or service performed for the County Office, upon completion of which, the service required or similar service will not be extended or needed on a continuing basis, (Education Code Section 45103). A special project or service will not exceed 700 cumulative hours in a fiscal year.

- B. No credit towards acquiring regular status with the County Office or in any classification will accrue from service in a limited-term assignment or substitute assignment except as provided in C. below.
- C. Whenever a person employed under a limited-term appointment is subsequently certified and appointed to fill a permanent position without a break in service, their regular employment will be considered for all purposes, other than completion of probationary period, as beginning with the effective date of the limited-term appointment.
- D. Intermittent Assignment: A limited-term position, which is used to cover assignments with hours that vary during the school year. Such assignments may start and or stop during the school year. Hours and assignments may vary during the school year, but the hours worked by any intermittent employee will not exceed a total of one thousand and forty (1040) hours in any year. An Intermittent Assignment is only available to employees working six (6) hours or more per day.

50.400.4

Transitional Employment (Special Funded) (Education Code Section 45105)

- A. Any federal, state, or special funded positions that are not part of the regular school program will, nevertheless, be a part of the classified service, as established by Section 45103 or Section 45256 of the Education Code. Persons employed in such positions will enjoy all of the rights, burdens, and benefits afforded other classified employees; provided, however, that:
1. Such positions will be training positions to be continued for no longer than twenty-four (24) months from the establishment of such position;
 2. Persons in such position will be carried on a seniority list by class separate from the regular classified seniority list; and
 3. Persons in such positions will be subject to the provisions of paragraphs B and C of this section.
- B. If specially funded positions are restricted to employment of persons in low-income groups from designated impoverished areas and other criteria, which restricts the privilege of all citizens to compete for employment in such positions, all such positions will, in addition to the regular class title, be classified as "restricted". All "restricted" positions, except those listed below, will be subject to Education Code Sections 45272 and 45273.
1. Instructional Aide;
 2. Any position involving personal contacts with pupils or parents that is established to assist school staff personnel responsible for school community relations; for educational support services for such areas as counseling, library, or health; or for the correction or prevention of behavioral problems.
- C. The Superintendent of Schools and Board may establish a "restricted", special funded position at any time in a specific department.

On the first regular examination date after completion of six (6) months of satisfactory service, a person serving in a "restricted" position will be given the opportunity to take a qualifying examination in the class in which the "restricted" position was established. If the "restricted" candidate satisfactorily passes the qualifying examination, their name goes on the eligibility list.

Once a regular classified position becomes vacant in the class corresponding to the "restricted" position, the names of all "restricted" employees on the eligibility list will be certified to the Department Director as free names, along with the top three (3) names/ranks on the eligibility list.

If the "restricted" employee is transitioned into the regular classified service, the seniority date of the employee will be counted from the original date of employment in the "restricted" position. No further six (6) months probationary period will be required of the employee if they are hired in the same class in which they had been on special funded training.

A "restricted" employee may, however, compete for any other open position in this office at any time, along with other candidates. Rule C then would not apply.

CHAPTER 60 – EMPLOYMENT REQUIREMENTS

60.100.0 HEALTH EXAMINATIONS and EMPLOYMENT REQUIREMENTS (Education Code Sections 45122, 45260, 45261, and 49406 Health & Safety Code Sections 3450 and 3451 and Admin. Code, Title 5, Section 5505)

60.100.1 Health Examinations

A. TB Examinations:

1. Initial Employment:

Every person being initially employed by the Sonoma County Office of Education in a permanent position will be required to comply with the provisions of Education Code Section 49406, which requires an examination to determine that they are free from active tuberculosis within sixty (60) days of employment.

Pre-employment tuberculin test costs are paid for by the County Office as long as the candidate or employee completes the test results reading. The County Office reserves the right to designate a particular clinic or hospital where the test will be administered and to charge a candidate or employee for the cost of a test if the candidate or employee fails to complete the entire testing process.

- a. A new employee must present evidence that they have submitted to an examination within the past sixty (60) days to determine that they are free of active tuberculosis. This examination will consist of an approved intradermal tuberculin test, or if the skin test is positive, the employee will submit to an x-ray of the lungs; or if the employee has previously tested positive, the employee will submit to an x-ray of the lungs. The County Office may exempt, for a period not to exceed sixty (60) days following termination of the pregnancy, a pregnant employee from the requirement that a positive intradermal tuberculin test be followed by an x-ray of the lungs.
- b. If a new employee is transferring employment from one school or school district, including private and parochial schools, to the County Office, the sixty (60) days requirement above will be waived if the new employee can produce a certificate as provided for in Section 3450 of the California Health and Safety Code which shows that the employee was examined within the past four years and was found to be free of communicable tuberculosis. This requirement can also be met if it is verified by the school previously employing the new employee that it has such a certificate on file and a copy of such certificate is forwarded to the County Office.
- c. For new employees, evidence of compliance with the requirements of this section must be on file prior to the first day in paid status.

2. After Employment

- a. Every permanent employee is required to undergo an examination to determine that they are free from active tuberculosis at least once every four (4) years after employment.
- b. The Human Resource Services Department will maintain adequate records on each employee, which indicate compliance with these Rules and the law.

B. Medical Examinations

1. Every individual appointed to a position in the Classified Service, or exempt from the classified service, will be required to pass a job-related physical examination prior to initial appointment. Promotional eligibles who have been offered employment in a classification possessing different physical requirements may also be required to undergo a job-related medical examination as determined by the County Office. The examination will be administered after the initial conditional offer of employment but prior to finalization of the appointment. The examination will be administered by a physician chosen by the County Office. The determination of the kind and extent of the examination will be determined by the County Office and may include a psychological examination. Exam costs will be borne by the County Office. However, the candidate or employee will be responsible for any missed appointment fee or rescheduling fee. The medical examination must be related to the duties as approved in the class specifications.
2. The County Office's physician will determine the ability of the applicant, candidate, or eligible to perform the prescribed duties of the class in which they will be employed, and will notify the County Office in writing of the medical findings. Reasonable accommodations may be made for persons with a diagnosed disability as described below.
3. In consultation with the County Office's physician, the County Office will make a determination if reasonable accommodation can be made for the individual. If the determination is that reasonable accommodation can be made, the appointment will be made. If the determination is that reasonable accommodation cannot be made, the individual will be notified by the County Office and informed of their appeal rights.

C. Extensive Physical Examination

If the Sonoma County Office of Education requires a more thorough physical or mental examination of an employee, Education Code Section 45122 will apply.

D. Reasonable Suspicion

If a supervisor has reasonable suspicion that an employee is at work impaired by a legal or illegal drug, alcohol, or other substance, the supervisor may require the employee to report for a fitness for duty health examination at Occupational Health, which may include testing for the presence of drugs and/or alcohol. Occupational Health will use these test results to make a determination as to whether or not the employee is/was fit for duty. The Supervisor will use this information, in combination with other information about the behavior or incident, to determine whether disciplinary action or other action is warranted.

- E. Return to Work and Unscheduled Exams:
An employee may be required to undergo a physical or psychological examination at any time there is deemed to be reasonable cause by the County Office Administration.
- F. Any employee returning from illness/injury leave of absence may be required to submit to a medical examination to verify sufficient recovery to return to the employee's regularly assigned duties.
- G. Medical Review Board:
 - 1. Any rejection for medical reasons of an eligible or of an employee who has applied for return from leave of absence may be appealed to the Commission.
 - 2. The Commission may employ outside medical experts to give a medical advisory opinion.
 - 3. The Commission, based on evidence submitted and the advice of medical experts to the Commission, will determine whether or not the denial of appointment or return from leave will be sustained. The decision of the Commission will be final and binding on all parties.

60.100.2 Criminal Records Check (Education Code Sections 45106 and 45125)

- A. Fingerprinting:
Every new permanent employee must submit to a criminal records check in accordance with prescribed procedures or will forfeit eligibility for employment. The Assistant Superintendent of Human Resource Services will notify each such employee where and when to report for fingerprinting and make necessary arrangements for making payment of the required fee.
 - 1. Review of Criminal Records:
 - a. All personal information such as date of birth, social security number, place of birth and similar personal information contained in a Request for Live Scan services will be kept confidential and will not be used by any employee for personal reasons; nor will such information be disclosed, except as needed to conduct official County Office business, as required by law.
 - b. All criminal record reports are to be treated as confidential. Any employee charged with receiving and/or reviewing them who divulges information contained therein to an unauthorized person is subject to disciplinary action.
 - c. The criminal records report from the California Bureau of Criminal Identification and Investigation and/or the Federal Bureau of Investigation will be reviewed, together with the person's application form. If there is a criminal record, the appointing authority will decide whether or not the person should be employed or retained in employment. If the record discloses no information beyond that supplied by the person on their application form, and they were accepted for examination and/or appointment, they will be considered employable.

2. Notice of Conviction of Subsequent Arrest

- a. If the County Office receives a subsequent arrest notice on a current employee, the Assistant Superintendent of Human Resource Services will review the charges to determine if the employee should be placed on unpaid leave pending the outcome of the judicial process.
- b. If an employee is to be dismissed because of a conviction or information disclosed on the criminal records report, the employee will be provided with ten (10) calendar days notice of the termination. The employee may be placed on unpaid leave during the ten (10) days notice. If an employee is dismissed because of information disclosed on the criminal records report, the employee will be removed from all eligibility lists.
- c. If the appointing authority desires that an eligible be removed from an eligibility list because of information from the Department of Justice or FBI, the Human Resource Services department will follow the merit rules on removing a candidate's name from an employment list. (See Rules 40.100.3 and 50.100.5)
- d. The Personnel Commission will be notified of the recommended action and the reasons therefore. If it approves the recommendation, the Commission will notify the employee or eligible of the Action taken or contemplated and the reasons therefore. The Commission will provide the person with an opportunity to appeal the decision, in writing, within ten (10) calendar days of notification, and may hold a hearing at its discretion. The decision of the Commission will be final.

60.100.3 Employment Requirements

Documentation

No individual will be placed in paid status without having on file with the County Office all the below documents, including sufficient documentation as required by Federal law as to that individual's right to work for the County Office.

- A. **Income Tax Withholding Form**
New employees must submit the tax withholding forms for both State (DE-4) and Federal (W-4) taxes to payroll at the time of employment.
- B. **Public Employees Retirement System (PERS) Application:**
New employees will submit a completed application form to the County Office at the time of employment. This rule will apply only to those employees entitled to PERS retirement benefits.
- C. **Social Security Number**
New employees will submit their social security number to the County Office at time of employment. Providing a false social security number is grounds for discipline, and may result in immediate dismissal.

D. Loyalty Oath

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

E. Verification of Right To Work Status

All individuals employed after November 1, 1986 are required to provide proof of their right to work in the United States and for the County Office. An individual's right to work is a minimum qualification for employment with the County Office. No individual will be allowed to be placed in paid status without having on file with the County Office sufficient documentation as required by Federal law as to that individual's right to work for the County Office.

No proof will be required until after an initial offer of employment has been made by the County Office. Every individual will be required to provide verification as required in this rule. An individual unable to provide verification of their right to work in this country and for the County Office pursuant to this rule, will have their name removed from the eligibility list(s), and will not be placed on the payroll of the County Office.

F. California driver license if required for the assignment;

G. Proof of insurability, if required for assignment.

60.100.4 Requirement to Notify County Office of Any Status Change

Employees will notify the County Office whenever their status changes, such as new address, new telephone number, marital status for health and welfare benefits, increase or decrease in the number of dependents for health and welfare benefits and tax purposes, name of person(s) to notify in case of emergency, or other changes affecting the employee's status, etc.

60.100.5 Filing of Required Licenses or Certificates

Some classifications may require the employee to possess certain licenses and/or certificates. Every new employee must file copies of all licenses and/or certificates required as a condition of employment with the County Office. As these licenses and/or certificates are renewed, copies of each renewal must also be filed in the County Office within ten (10) working days of receipt by the employee.

60.200.0 PROBATIONARY PERIOD (Education Code Section 45301)

(Also see Collective Bargaining Agreement)

A probationary employee is an "at-will" employee who may be suspended or dismissed at any time without cause and without right of appeal.

60.200.1 Initial Probation

A. Duration of Probation

1. A new employee appointed from an Employment List will serve a probationary period of six (6) months in one (1) class before attaining permanency in the classified service.
 2. Classified management will serve a twelve (12) month probation period.
 3. An employee who has been promoted, laterally transferred to a related class not previously held, or demoted to a class not previously held must serve a probationary period of six (6) months in the new class before attaining permanency in that class.
 4. Classified management newly assigned as described in #3 above must serve a twelve (12) month probationary period.
 5. Credit toward completion of probation will be granted only for paid service in regular positions in the class after appointment from the eligibility list, except as provided below and in Rules 50.400.3 and 50.400.4 Education Code Section 45301
- B. In the event that a provisional employee is certified from an Employment List created next after their original application for employment in that class, their probationary period will include the time served as a provisional employee. If an employee failed to qualify by an examination, from which the next Employment List was created after their original application, their probationary period will not include the time served as a provisional employee.
- C. No credit towards acquiring regular status with the County Office or in any classification will accrue from service in a limited-term assignment or substitute assignment except as provided in D. below. (See Rule 50.400.4)
- D. Whenever a person employed under a limited-term appointment is subsequently certified and appointed to fill a permanent position without a break in service, their regular employment will be considered for Sonoma County Office of Education service credit, other than completion of probationary period, as beginning with the effective date of the limited-term appointment. (See Rule 50.400.3)
- E. Extended School Year (ESY) Employee
An Extended School Year employee does not attain regular employee status. An Extended School Year employee, who is subsequently hired into a permanent full-time or part time position, must successfully complete the full probationary period before becoming a regular employee.
- F. Intermittent Assignment or Substitute
An employee working in a limited-term intermittent or substitute assignment does not attain regular employee status in said assignment. Said assignment may end at any time, and the incumbent has no appeal rights.

60.200.2 Rights of Probationary Employees

- A. A new employee who resigns in good standing during his initial probationary period will, upon request, have their name restored in proper rank to the Employment List. Such action will not extend the life of the list or the period of eligibility of the employee.
- B. A new employee who is suspended or dismissed during his initial probationary period will be notified in writing of the action taken and the reasons therefore. They will not have the right of appeal.
- C. An employee, who has regular status in the classified service and who has been promoted to a higher class, may be demoted involuntarily during the probationary period to their former class. They will be notified, in writing, of the action and the charges against them, and will have the right of appeal provided in Rule 60.1000.
- D. A regular employee, who is suspended or dismissed or demoted to other than their former class during a probationary period, retains full rights of appeal.
- E. Should the work for which a probationary employee has been appointed prove temporary, instead of regular as certified, and should they be laid off without fault or delinquency on their part before his probationary period is completed, their name will be restored to the eligibility list, and the time they have served will be credited to them on their probationary period.

60.200.3 Expiration of Probationary Period

- A. With the written mutual agreement of the probationary employee and the County Office and approval of the Commission, the probationary period may be extended by up to six (6) additional months. The Assistant Superintendent of Human Resource Services will, in writing, notify the Department Head of the date on which each employee's probationary period will expire. Such notification will be made not less than one (1) month prior to the date of expiration.
- B. Upon receipt of the notification of expiration of the probationary period, the employee's immediate supervisor will complete a performance report and submit it to the Assistant Superintendent of Human Resource Services and the Superintendent, who will consider it in their comments thereon. (See Rule 60.700)
- C. The Superintendent, based on their evaluation of the performance report, will specify one (1) of the following actions:
 - 1. The employee will be placed on regular status.
 - 2. The employee will be separated or, if appropriate, demoted to their former classification.
 - 3. The employee and appointing authority may benefit from an extension of probation.

- D. The regular status of a probationary employee will begin on the day following the end of the probationary period, provided that the Assistant Superintendent of Human Resource Services has received from the Superintendent the recommendation for regular appointment.

60.300.0 CHANGES IN POSITION, ASSIGNMENT, AND/OR CLASS

60.300.1 Transfer

- A. An employee may be transferred at their request or for the good of the service of the Sonoma County Office of Education from one position to another in the same class, at the discretion of the Superintendent, provided that such action will not be taken for punitive or preferential reasons.
- B. A regular employee may be transferred to a position in a related class on the same salary schedule for which they are qualified, with the recommendation of the Assistant Superintendent of Human Resource Services and the approval of the Superintendent.
- C. Transfers will not change the employee's salary rate, anniversary date, accumulated illness leave, and accumulated vacation credit, or in any other manner reflect adversely upon their rights, as provided in law and these Rules.
- D. The Assistant Superintendent of Human Resource Services will determine whether classes are sufficiently related to permit transfer between them. They will consider similarity of duties, minimum qualifications, examination content, occupational group, and promotional field (above and below). In general, more latitude in transfers should be permitted:
 - 1. As the employee's seniority in the classified service increases.
 - 2. When the transfer request is based on reclassification, impending layoff, or reasons of health.
 - 3. When the employee meets the minimum requirements for the class.
- E. A regular employee who transfers to a position in a class in which they have not previously completed a probationary period will be considered probationary in that class. At any time during the probationary period, they may be returned (transferred) to their former class without right of appeal, unless such action results in layoff, demotion, or reduction in assigned time. In the latter cases, the employee will have the same appeal rights as a regular employee who is demoted or dismissed.
- F. Transfers will have the following effects on seniority:
 - 1. Within the same class - none.

2. From one class to another - the employee will not receive seniority credit in the new class for service in the other classes; however, seniority in the classified services will be retained.
- G. Transfer will not be used as a device to alter the sequence of impending layoff, although employees whose positions are to be eliminated may transfer to other classes as this Rule contemplates. (See Rule 60.900)
 - H. Reasons for any transfer, which is not voluntary, will be discussed with the employee by their immediate supervisor, and will be subject to an appeal to the Commission.
 - I. Voluntary Demotion
 - J. A regular employee may request, in writing, a voluntary demotion to a vacant position in a class with a lower maximum salary rate. Such requests require the approval of the Superintendent.

The salary paid to an employee who requests a voluntary demotion will be paid in accordance with the existing applicable contract provisions. If no contract provision applies, the employee may request that their salary be Y-rated. Such Y-rate requests will be reviewed on a case-by-case basis and must be approved or denied by the Superintendent.

Voluntary demotion is a privilege available to a probationary employee only in cases when they would otherwise be laid off for lack of work or lack of funds.

K. Involuntary Demotion

Involuntary demotion is a disciplinary action for cause, and is subject to the pertinent rules and procedures.

A permanent employee, who has been promoted or reclassified to a higher class or transferred to a new class, may be involuntarily returned to their former class during the probationary period without cause and without right of appeal.

60.300.2 Restorations (Education Code Section 45309)

A. Restoration after Resignation

A former regular employee who resigned in good standing may be reinstated in a vacant position in their former class and status within thirty-nine (39) months of the last date of paid service. Also, they may be reinstated in a vacant position in a lower related class, if qualified, or in limited-term status in the same or lower class. Such actions are discretionary with the Superintendent. (See Rules 50.100.2, 60.800.4, & 60.900.5.)

B. Restoration From Voluntary Demotion

With the approval of the Superintendent, an employee who has taken a voluntary demotion, within thirty-nine (39) months after the effective date of the demotion, may be restored to a vacant position in their former class or in a vacant position in a related lower class, as determined by the Commission. Restoration from voluntary demotion is discretionary with the Superintendent, unless the demotion was in lieu of layoff, in which case Rule 60.300.2 C. below applies.

C. Restoration From Layoff

An employee who has accepted demotion in lieu of layoff for lack of work, lack of funds, or abolishment or reclassification of their position, has the right to be reemployed, in accordance with their seniority, in a vacant position in their former class within thirty-nine (39) months after demotion. Intervening reassignments to other classes will not nullify that right. If they have not been reemployed in their former class within thirty-nine (39) months, they will be eligible for appointment to a vacant position in that class, without examination, for an additional twenty-four (24) months, at the discretion of the appointing authority. (Education Code Section 45298.)

D. Effects of Reinstatement/Restoration

Reinstatement or restoration of employment of a current or former employee will have the following effects:

1. Restoration to the former step in the current salary range for the class or, if restored in a lower class, to the rate closest to that of the step to which they would be assigned if they were restored in their former class.
2. Restoration to regular status will include past seniority credit for future pay step advancements, but no credit will be earned during the off-duty period.
3. If restored to regular status, restoration of accumulated sick leave and seniority as of the date of the separation.
4. Restoration of former anniversary date, but without step-advancement credit for the off-duty period.
5. Restoration of all rights, benefits, and burdens of a regular employee in the class to which they were restored.

60.300.3 Promotions

Vacant positions in the classified service will be filled by promotion, whenever the qualifications are met by a sufficient number of Sonoma County Office of Education employees to provide reasonable competition among candidates and reasonable choice of candidates for appointment. The Assistant Superintendent of Human Resource Services will make the determination as to whether reasonable competition is available, based on the number and qualifications of possible applicants within the Office of Education. For information regarding salary placement upon promotion see Merit Rule 70.200.4.

60.400.0 LIMITED-TERM EMPLOYMENT

60.400.1 Types of Limited-Term Appointments

- A. A substitute assignment may be made not to exceed in duration the authorized absence of the regular employee, but it need not coincide with the dates of that absence. Also, a substitute assignment may be made in a lower class related to that of the absent employee if the assigned duties are reduced in level accordingly.
- B. The appointing authority may establish positions, the duration of which is six (6) months or less; such positions will be designated "limited-term".
 - 1. Such positions are subject to classification by the Personnel Commission, except that the Assistant Superintendent of Human Resource Services may classify them, subject to later ratification, if the good of the service demands expeditious action.
- C. Limited-Term Extended School Year
 - 1. The appointing authority may establish Extended School Year positions, the duration of which is one hundred and fifty (150) hours or less. Such positions are subject to classification by the Personnel Commission.
 - 2. Limited-Term – Intermittent Assignment: A limited-term position, which is used to cover assignments with hours that vary during the school year. Hours and assignments may vary during the school year, but will not exceed a total of one thousand and forty (1040) hours in any fiscal year. Intermittent Assignments are only available to employees working six hours or more per day.

60.400.2 Eligibility for Limited-Term Employment

- A. Limited-term appointments will be made in accordance with procedures for regular appointments, except as provided below.
- B. If an eligible has been appointed from an eligibility list to a substitute assignment or limited-term position, they will continue to be eligible for limited-term appointments in the same or related lower class after the eligibility list has expired.

The same privilege of continued eligibility will apply to a former employee who resigned in good standing and who accepted a limited-term appointment within thirty-nine (39) months after resignation.

The names of such persons will be ranked in the order of seniority on a special list used for limited-term appointments, and will be certified therefrom before the current eligibility list is used. Names may be removed from this list for any of the causes listed in Rule 40.100.3 or Rule 60.1000.1, subject to appeal to the Personnel Commission.

- C. Extended School Year limited-term appointments will be made in accordance with Rules 60.400.1 C. above, 50.100.5 B, and 50.200.2 C.
- D. Provisional appointments may be made to limited-term positions, and substitute assignments subject to the provisions of Rule 50.400.

60.400.3 Compensation

A. Current Regular Employee

1. Additional Hours Same Classification

When a regular part time employee is given a limited-term appointment in the same classification, they will be paid for those limited-term hours at the same rate of pay as the employee is paid for their regular assignment.

2. Additional Hours Different Classification

If approved by the Superintendent, a regular part time employee who is assigned to work hours in addition to their regular assignment in a different classification on a limited-term basis will receive credit for past service to the County Office for placement on the salary range for the limited-term assignment.

3. Limited-Term In Lieu of Regular Assignment

When a regular employee is given a limited-term appointment in a second class in lieu of all or part of his /her regular appointment, their rate of pay in the second class will be the rate appropriate to that class which is next above their regular rate, if any, but not more than the highest rate applicable to that class. (Education Code Section 45110.)

B. Reinstated Employee

Former regular employees who are reinstated as limited-term employees within thirty-nine (39) months after resignation will be paid in accordance with Rule 60.400.3. The identified salary step will be applicable to all future limited-term appointments of that employee in that class until they lose eligibility for such appointment.

C. Bilingual Premium

If approved by the Superintendent, a limited-term employee, who is required to use a second language (including American Sign Language (ASL)) in the performance of their duties, and who meets the criteria listed below, may receive a bilingual premium pay of five percent (5%) of the employee's base pay.

- 1. The supervisor will verify that the limited-term assignment requires the use of a second language;
- 2. The employee may be required to pass a proficiency test; and
- 3. The bilingual premium will end when the limited-term assignment ends.

D. Education Premium

If approved by the Superintendent, a limited-term employee, who has completed training in the STARS program, the SHAPE program, or has a BA/BS degree in an education related major as determined by the Assistant Superintendent of Human Resource Services, and who is assigned to work with special needs students, may be approved to receive a five percent (5%) education premium.

The premium is paid only if proof of training is submitted and the request is approved by the Superintendent. Approval is not automatic, and will be based upon program needs.

- E. All other limited-term employees will be paid at the hiring rate for regular appointments in the class.

60.400.4 Rights and Benefits

- A. Regular employees who are serving in limited-term appointments while retaining regular status in another class will continue to earn and be granted all rights and benefits of a regular employee.
- B. All other limited-term employees will be granted only those benefits provided by law and these rules, such as paid holidays and bereavement leave. No seniority or credit toward completion of probation or any other benefit will accrue from service in a limited-term appointment. (Education Code Section 45136 - No Sick Leave Earned.)
- C. When authorized by the Superintendent, limited-term employees may be allowed to take the following unpaid leaves: Family Medical Leave, Leave Without Pay.
- D. Under certain circumstances, the Superintendent, or their designee, may authorize benefits for a limited-term employee. It may be in the interest of the program to offer health, dental or vision benefits to secure the most qualified employee.

The decision to grant health, vision or dental benefits to a limited-term employee will be made on a case-by-case basis. Each decision will be based upon program needs and whether or not the situation meets all the criteria listed in this rule; and must be approved by the Department Director, the Assistant Superintendent of Human Resource Services, and the Superintendent, or their designee. Such benefits will not be granted unless all the following are met:

1. The limited-term appointment requires special skills, such as bilingual skills, Licensed Vocational Nurse (LVN) Certification, Certified Nursing Assistant (CNA) Certification, or other specialized training;
2. The limited-term appointment is for a minimum of four hours per day, or twenty hours per week; and the limited-term appointment is for a duration of at least four (4) months.

60.400.5 Terminations

- A. Limited-term appointments will be subject to termination at any time, except during an assigned shift.
- B. Limited-term employees may be dismissed for cause, the specific cause will be made known to them and to the Assistant Superintendent of Human Resource Services in writing.

The Assistant Superintendent of Human Resource Services may remove the employee's name from the special list for limited-term appointments if their investigation supports such action.

A Limited-term employee has no appeal rights for termination from a limited-term assignment.

60.500.0 ASSIGNMENTS OF DISABLED EMPLOYEES

60.500.1 General Policy

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

60.500.2 Reassignments

- A. A disabled employee, who is able to perform the essential functions of the position, may request that their duties in their regular position be altered in accordance with their limitations. Such requests for changes in duties must be made in writing to the Assistant Superintendent of Human Resource Services, who will determine whether an accommodation can be made and whether the position requires a classification study.
- B. A disabled employee may accept demotion or transfer to a less demanding class, with the approval of the Commission.
- C. A disabled employee may be assigned to a position in a higher class, with the approval of the Commission, but will receive no salary benefit from such assignment until they can be appointed to the higher class in accordance with the rules and procedures on eligibility and appointments.

60.500.3 Effect of Refusal by Employee

A disabled employee may refuse assignments to other classes without effect on their rights under sick leave provisions of the law and these rules. However, there is no

obligation for the appointing authority to renew offers of reassignment, which have been refused, or to make alternative offers.

60.600.0 EMPLOYMENT OF PERS RETIREES

60.600.1 General Policy (Education Code Section 42662)

- A. A person receiving a retirement allowance from the Public Employees' Retirement System may be employed for up to nine hundred and sixty (960) hours in a fiscal year whenever other eligibles are not available and the retiree's skills or knowledge are needed, or during an actual emergency to prevent the stoppage of public business. However, if a retiree applies for and receives unemployment benefits after retirement, the County Office will not offer any form of employment to such retiree for at least twelve (12) months.

In addition, if the County Office discovers that a retiree, who is working part time for the County Office, has received unemployment benefits within the past 12 months, the County Office will terminate that employment with the County Office no later than the last day of the month. The retiree will then be ineligible for any employment with the County Office for a period of at least twelve (12) months following termination.

- B. The retired person must certify that they understand they are restricted to nine hundred and sixty (960) hours in any fiscal year with the County Office or other employers subject to PERS, and that their employment, and continuance in employment, is discretionary with the Superintendent.

60.600.2 Compensation

- A. A retiree employed under authority of this rule will be entitled only to the appropriate salary earned, to include overtime compensation as provided for in Rule 70.300.3.

They will be entitled to all fringe benefits applicable to employees with limited-term status only, except no retirement contributions will be made.

- B. Retired employees will normally be paid on the first step of the salary schedule of the class to which assigned, but may be paid on a higher step upon the recommendation of the appointing authority and the approval of the Commission, but in no case will the compensation be at a rate other than one payable to a regular employee in that class.

60.600.3 Assignment

- A. A retired employee employed under this rule is not subject to reinstatement to PERS, nor does the compensation paid provide for retirement allowance adjustment.

- B. The appointing authority will certify to the Assistant Superintendent of Human Resource Services that a retiree employed under this rule meets the provisions thereof, and their combined calendar year employment by all employers subject to PERS does not exceed nine hundred and sixty (960) hours.

It is recommended that the appointing authority secure an affidavit from the prospective employee as to their eligibility and/or the district certify eligibility through PERS.

60.700.0 PERFORMANCE EVALUATIONS
(Also see Collective Bargaining Agreement)

60.700.1 When Evaluations Are To Be Made

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

A. Probationary Employees

1. New Employees

a. Classified and Classified Confidential:

New classified employees in classifications listed on the SEIU salary schedule and those who are in classified confidential positions will have an evaluation completed by the end of three (3) months of service and by the end of six (6) months of service, at which time it will be determined whether they will gain permanent status or be released from their employment.

b. Classified Management:

New classified management employees will have an evaluation by the end of their six (6) months of service and by the end of the twelve (12) month probationary period, at which time it will be determined whether they will gain permanent status or be released from their employment.

2. Promotion or Lateral Transfer

a. Classified and Classified Confidential:

Regular employees in probationary status as the result of a promotion or a lateral transfer (to a new classification within the SEIU salary schedule) will have an evaluation completed by the end of three (3) months of service and by the end of six (6) months of service, at which time it will be determined whether they will gain permanent status or be offered a return to their previous position.

b. Classified Management:

Upon promotion, regular classified management employees in probationary status as the result of a promotion or a lateral transfer, will have an evaluation by the end of six (6) months of service and by the end

of the twelve (12) month probationary period, by which time it will be determined that they will gain regular status in the new classification, or be offered a demotion back to their classification.

B. Employees

Employees will be evaluated at least once each year and at any other time that the supervisor desires to make a special report for commendation or for unsatisfactory performance, except as provided in the represented employees' (SEIU) contract.

60.700.2 Procedure To Be Followed

- A. Performance evaluation reports will be made on forms prescribed by the Assistant Superintendent of Human Resource Services, and will be prepared by the employee's immediate supervisor whenever possible. The report will then be discussed with the employee for their possible comments and signature. The report will then be forwarded to the Department Director, the Assistant Superintendent, and Superintendent for appropriate comments.
- B. The employee will be provided with a copy of the completed evaluation for their files. The original evaluation report will be filed with their personnel records and retained in the Human Resource Services Department. The evaluation report will be available for review by administrative officials in connection with promotional examinations and disciplinary actions.
- C. If an employee is not satisfied with their performance evaluation, they may appeal through the grievance procedures.

60.800.0 RESIGNATIONS AND REINSTATEMENTS (Education Code Section 45308)

60.800.1 Submission in Writing

When a classified employee desires to resign from their position, they will present their resignation, in writing, including the effective date, to the Superintendent. A copy of the resignation will immediately be filed with the Assistant Superintendent of Human Resource Services. An employee is considered to have "resigned in good standing" if the employee gives at least two weeks advance notice, unless otherwise determined by the Commission. Employees with specialized skills are encouraged to give more than two (2) weeks notice whenever possible.

60.800.2 Resignation and Effects on Eligibility Lists

A resignation relates only to the specific position from which the employee resigns and does not impair their rights on other eligibility lists, except that if their name is on any promotional eligibility lists, the name will be removed.

60.800.3**Absent Without Leave**

An employee who fails to report for duty for three (3) consecutive working days without permission from their supervisor or the Superintendent, or who fails to return from a leave of absence within three (3) working days after the expiration of an authorized leave, will be deemed to be absent without leave. Unless for good cause, such absence will be deemed an automatic resignation.

60.800.4**Rights after Resignation**

Upon recommendation of the Superintendent, any permanent classified employee who resigned in good standing may be reinstated to their former classification without further competitive examination within thirty-nine (39) months after their last day of paid service if a position is available. The break in service will be disregarded, and they will assume their previous status and have restored to them all rights, benefits, and burdens of a permanent employee. They may also be reemployed in a lower-related classification if they are qualified or on a limited-term basis in the same or lower classification. (See Rule 60.200.3)

60.800.5**Resigned Probationer**

An employee in good standing who resigns during their probationary period may be returned to their original place on the eligibility list, at the discretion of the Commission. A person who resigns because of inability to cope successfully with the reasonable requirements of a position will have no standing under this Rule.

60.800.6**After Service in Another Class or in the Certificated Service**

A permanent classified employee who accepts a position in the Certificated Service of the Office or in the Classified Service under provisional or limited-term appointment in another classification will have the right to reinstatement to their former permanent position in the Classified Service upon termination of the certificated position or the provisional or limited-term appointment.

60.800.7**Reinstatement Request File**

The Assistant Superintendent of Human Resource Services will maintain a file containing the names of former employees who have requested reinstatement.

60.900.0**LAYOFF (Education Code Sections 45260, 45261, 45298, 45308, and 45309)****60.900.1****Layoff Procedure**

- A. Classified employees will be subject to layoff for lack of work or lack of funds. When it becomes necessary to lay off regular or probationary employees, such layoffs will be made in inverse order of seniority in the classification in which the layoff occurs. The employee who has been employed the shortest time in the classification, plus higher classification, will have the least seniority, and, therefore, will be laid off first.

- B. When two (2) or more employees in the same classification have the same employment date or promotion date in the same classification, a lottery system will be held within sixty (60) days of the date of employment or promotion to determine seniority rankings.
- C. Notice: The County Office will notify the affected classified employee in writing a minimum of sixty (60) calendar days prior to the date of any layoff, unless the employee requests less notice in writing.

The notice to the affected employee will specify the reason for the layoff and be delivered in person, or if the employee is not at work, by certified mail to the last known address of the employee on file in the Human Resource Services office.

Failure of the employee to retrieve delivered mail or to respond to notification by the US Postal Service of attempted delivery will not be grounds for voiding notification, or the staying of the timelines outlined in these rules. For purposes of these rules, if a notice is mailed, the third (3) working day following the postmark date of the notice will be considered to be the official date of receipt.

- D. Notice Content: The notice of layoff will contain the following information:
 - 1. The reason for the layoff;
 - 2. The employee's displacement rights, if any;
 - 3. The deadline for exercising any displacement rights;
 - 4. The employee's reemployment rights; and
 - 5. Procedures for continuation of benefits, if any.

60.900.2

Displacement Rights of Employees Laid Off For Lack of Work or Funds

(Seniority rights are applicable only to service performed in the Sonoma County Office of Education):

- A. The names of regular and probationary employees so laid off will be placed upon the reemployment list for their classification from which they were laid off in the relative order of seniority, and such eligibility will continue for thirty-nine (39) months from date of layoff. A regular or probationary employee, who is laid off and is subsequently reinstated, will regain that seniority earned prior to the time of layoff and regain all the rights, benefits, and burdens of a regular or probationary employee, as the case may be, in that class to which they are reemployed.
- B. Regarding displacement rights of employees laid off for lack of work or lack of funds, the senior regular or probationary employee is the individual who has the longest period of continuous service. No service performed prior to entering into a probationary or regular status in the classified service, except in restricted positions, will be counted. Seniority rights of an employee displaced from a higher

classification will include the total of previous service in a higher class, service in the class from which layoff occurs, and prior service in an equal or higher class in the County Office.

- C. If the employee who is being laid off or displaced has had previous service in an equal or lower classification range in the Sonoma County Office of Education, they may then in turn displace an employee with less seniority working in their former equal or lower classification range. Should an employee have the right to displace in more than one (1) class, they will first displace in the class with the highest salary allocation.
- D. A regular employee who may be laid off, despite the possession of displacement rights, in order to avoid layoff, may request, in writing, a voluntary demotion to a vacant position in a lower classification or a transfer to an equal vacant classification, provided they are found qualified by the Assistant Superintendent of Human Resource Services to perform the duties thereof, and provided further that the appointing authority approves the demotion and assignment.
- E. When a permanent position is to be reduced in assigned time per day, week, or year, the incumbent will have the right to transfer to any vacant position in the class, which is not greater in assigned time than their former position. If a vacant permanent position of equal time is not available, the incumbent may bump the incumbent of a position with equal time who has the least seniority in the class, provided that they have greater seniority.
- F. If no such option as described in E above is available, the laid off employee may bump the employee with the least seniority among those occupying positions of less time than the original position being reduced, provided they have greater seniority.

60.900.3 Layoffs of Emergency, Provisional, and Limited-Term Employees

No regular or probationary employees will be laid off from any position while employees are serving under emergency, provisional, or limited-term appointments in the same classification or lower classification, unless the regular employee declines such an appointment.

Emergency, provisional, and limited-term employees may be separated, at the discretion of the appointing authority, without regard to the procedures set forth in this rule.

60.900.4 Restoration

(See Rule 60.200.3)

- A. Persons will be certified from a reemployment list in reverse order of layoff, provided that the person is willing and able to report for duty within three (3) weeks of the offer.

Each such person who has been laid off or displaced from a position in which they had permanent status will, in writing, be offered restoration to the position from which they are laid off should such position be reestablished, or should the necessity

for layoff or displacement cease to exist, or should another position in the same class become vacant within thirty-nine (39) months after the date they are laid off or displaced.

Should they not accept restoration within one (1) week after the date of the offer, or should they decline to begin work within three (3) weeks after the date of the offer, they will be declared unavailable, and will forfeit their right to restoration, unless further offer of restoration is granted by the Personnel Commission.

- B. If a person has been on a reemployment list for six or more months before an offer or restoration is made and a medical examination is normally required as a part of the hiring process for that classification, the County Office will require the person to pass a medical exam prior to being restored. The exam will be no more rigorous than the normal employment exam or fitness for duty exam required for the position.
- C. A name may be removed from a re-employment list for any of the following causes:
 - 1. Conviction of a crime or crimes which would be sufficient to support dismissal for a permanent employee or which precludes employment in a public school;
 - 2. Conduct, which would cause dismissal under the provisions of Education Code Section 45303;
 - 3. Inability to pass the medical exam within ten (10) calendar days;
 - 4. Making a false statement or omitting statement as to any material facts on an application form or health screening form;
 - 5. Dismissal from employment for cause subsequent to layoff.

A person removed from the reemployment list will be provided a written statement of the reason, and will be advised of their right to file an appeal with the Personnel Commission if they believe there has been an error.

- D. Whenever a person is unavailable for restoration, the next senior person who is eligible for restoration will be offered restoration in the same manner and under the same conditions. Should there be no person eligible and available for restoration, the position may be filled as otherwise provided by these Rules for appointment to a vacant position.
- E. A person who is unavailable for restoration may request in writing, within two (2) weeks after they are declared unavailable, to the Personnel Commission that they be considered for further offer of restoration should such occur within thirty-nine (39) months after lay off or displacement.

Their request will contain a full explanation of the reason for their unavailability. Within one (1) month after the request is filed, the Commission will either grant or deny further offers of restoration. The Commission may specify conditions under which further offers of restoration may be granted.

60.900.5 PERS Retirement in Lieu of Layoff

A regular employee who has at least five (5) years of service credit with PERS and is at least fifty (50) years of age may elect to accept a service retirement under PERS in lieu of layoff, voluntary demotion, or reduction in assignment. Such employees will complete and submit a retirement application to PERS no later than thirty (30) days after notification of pending layoff.

60.1000.0 DISCIPLINARY ACTION AND APPEAL

Education Code Sections 44010, 44011, 45123, 45260, 45261, 45302 through 45305
(Also see Collective Bargaining Agreement)

A substitute, limited-term, provisional, probationary employee or other temporary employee may be suspended, demoted, or dismissed at any time during their assignment without cause and without any appeal rights as described in these rules.

60.1000.1 Causes for Suspension, Demotion, and Dismissal

- A. Persons employed in the classified service may be disciplined, including suspended, demoted, or dismissed for any of the following causes:
1. Incompetence or inefficiency – a pattern of low standard performance of assigned duties.
 2. Insubordination – refusing to perform lawful and reasonably assigned duties or failure to follow rules or directives of a supervisor.
 3. Inattention or dereliction of duties – a pattern of continued negligence or disregard in the performance of assigned duties.
 4. Discourteous, offensive or abusive conduct or language toward other employees, pupils, or the public or any other failure of good conduct tending to injury the public service.
 5. Willful and persistent violation of the Education Code, rules and procedures adopted by the Personnel Commission, County Board of Education, or Superintendent; or administrative procedures adopted by a department or program.
 6. Dishonesty, theft, willful misuse, destruction, or mishandling of County Office property.
 7. Knowingly falsifying or withholding any material information supplied to the County Office, including but not limited to, information required on application forms and employment records, or other official documents of the County Office.
 8. Working, or reporting to work, under the influence of a legal or illegal drug, including alcohol, or other substance which impairs the employee’s ability to perform their job duties, or addiction to the use of controlled substances.

Possession or consumption/use of an open container of alcohol or an illegal drug while at work or on a County Office work site.

“Possession” is defined as on the person, in the employee’s personal belongings, or in the employee’s vehicle.

- a. For alcohol use, “under the influence” is defined as a blood alcohol level of .08 or above;
- b. For drug use “under the influence” is as defined by Occupational Health;
- c. “Controlled substance” is defined as a drug, other than those drugs available without a prescription, alcohol, and tobacco.

If the use of a controlled substance is a first offense and does not involve any of the following activities in the presence of children: the sale or use of an illegal drug, illegal use or sale of a controlled substance, or sale or consumption of alcohol, the employee will have the option of successfully completing a substance abuse treatment program in lieu of disciplinary action. If the employee does not select such an option, or, in the judgment of the treatment center director, successfully completes the program, the County Office may proceed with disciplinary action.

9. Arrested, being formally charged and convicted of a sex offense as defined in Education Code Section 44010 will result in immediate dismissal with no right of appeal and the employee is not eligible for the option of successfully completing a substance abuse treatment program in lieu of disciplinary action. A plea, verdict, or finding of guilty or a conviction following a plea of nolo contendere, is deemed to be a conviction.
10. Arrest, being formally charged and convicted of a narcotics offense as defined in Education code section 44011 will result in immediate dismissal with no right of appeal and the employee is not eligible for the option of successfully completing a substance abuse treatment program in lieu of disciplinary action. A plea, verdict, or finding of guilty or a conviction following a plea of nolo contendere, is deemed to be a conviction.
11. Conviction of a felony or serious crime or a record of one or more convictions which indicates that the person is a poor employment risk. A plea, verdict, or finding of guilty or a conviction following a plea of nolo contendere, is deemed to be a conviction.
12. Political activities engaged in by an employee during their assigned hours of employment including the use of County Office time, property, or resources to advocate for or against a candidate for office or a ballot initiative.

13. Frequent unexcused or unauthorized absence or tardiness which adversely impact on the operation of the County Office, abuse of sick leave, or absences without proper notification.
14. Continuing illness of a disabling nature after the exhaustion of illness leave and leave of absence privileges, which preclude the employee from performing the essential job functions required of an employee's classification with or without accommodation.
15. Failure to report for review of criminal records or for medical examination after due notice.
16. Advocacy of overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.
17. 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.
18. The un-insurability of an employee to drive a County Office vehicle when such duty is a requirement of the employee's position. Upon notification or confirmation by the County Office insurance carrier that an employee is uninsurable, discipline will be handled in the following manner:
 - a. The County Office will attempt to reassign the employee within the same class or to a vacant position in a related class, which does not require driving as a part of the employee's regular assignment;
 - b. If such reassignment is not possible, then the employee may be demoted to a vacant lower classification which does not require driving and for which they are qualified;
 - c. If a vacant position does not exist for a demotion to be accomplished, or if the employee declines demotion, the employee may be dismissed.
19. Cancellation or suspension of a license required for the performance of assigned duties.
20. Willful destruction, mishandling, or unauthorized use of County Office property; or use of County Office property for personal gain.
21. Offering or accepting anything of value or any service in exchange for special treatment in connection with the employee's work assignment or position with the County office.
22. Any abusive, hostile, or threatening action that causes harm to the County Office, its students, its employees, or the public such as, but not limited to, carrying out a physical or cyber-attack or assault on an employee, a student, a member of the

public, or an employee of another district; or any conduct creating a discriminatory, intimidating or abusive work environment.

23. Working overtime without authorization.
24. Defrauding the County Office by collecting sick leave or Industrial Accident/Illness Leave pay while working elsewhere for pay during the hours the employee's scheduled work assignment for the County Office,
25. Abandonment of position: An employee is presumed to have abandoned their position after being absent from work duty without notification, prior authorization, or after failure to notify the County Office of a valid reason for absence for three (3) or more consecutive working days.
26. Failure to return to work or notify the County Office within three (3) working days following an authorized leave of absence without notification or permission except in the case of an emergency.

60.1000.2 Progressive Disciplinary Action

(Also see Bargaining Agreement for Represented Employees)

- A. The procedure for disciplinary action will be based on the concepts of progressive discipline as set forth in Superintendent's policy and Operating Policy.
- B. Progressive discipline is not appropriate in all cases such as, but not limited to, fraud, dishonesty; possession of, sale, or use of controlled substances; sex offenses; immoral conduct; theft; or conviction for any of the criminal activities reflected in Education Code Sections 44010 and 44011, or conviction for any offense which would preclude employment under the Education Code including, but not limited to, the following sections: 44836, 45122.1, 45123, 45124. For further guidelines regarding documentation of employee performance see applicable Superintendent policies and/or collective bargaining agreement provisions.
- C. No employee in the classified service will be suspended, demoted, dismissed, or in any way discriminated against for reasons that constitute illegal discrimination as defined by applicable state and federal law.

60.1000.3 Written Notice and Procedures

- A. Delivery of written notice to an employee is deemed to have been met if the notice is hand delivered or is sent certified mail with return receipt requested to the last known address of the employee. Failure of the employee to retrieve delivered mail or respond to notification by the US Postal Service of attempted delivery will not be grounds for voiding notification, or staying the timelines outlined in these rules. The

employee is responsible for keeping the County Office informed as to their current mailing address.

- B. When a regular employee is to be suspended, demoted, or dismissed, specific written charges will be prepared and presented by the County Superintendent of Schools.

The charges must be so clear that the employee will know the exact complaints, and may be expected to respond to them. Education Code Section 45116, "The notice shall contain a Statement in ordinary and concise language of the specific acts and/or omissions upon which the disciplinary action is based." (Education Code Sections 1311 and 45116)

- C. The Superintendent will provide the employee with a written *Notice of Intended Disciplinary Action* and the reasons therefore, and will include a statement of charges and a notice of the right of the employee to request, within ten (10) calendar days from the date of the notice, a Pre-discipline Conference, i.e., an opportunity to meet with the Superintendent, and/or their designee, regarding the charges and proposed disciplinary action (also known as a Skelly Meeting). Any such written request for a Pre-discipline Conference from the employee will include a list of the dates and times the employee and their representative are available to attend the Pre-discipline Conference.

- D. Pre-discipline Conference

Whenever possible the Pre-discipline Conference will be held within seven (7) calendar days. The employee has the right to bring their legal counsel, union representative or any other person designated by the employee as his /her representative to such meeting, and the employee is responsible for notifying their legal counsel or representative of the Pre-discipline Conference date and time.

If the Superintendent is unable or unwilling to conduct the Pre-discipline Conference, the Superintendent may assign a designee. That designee will be an administrator who has the authority and authorization to accept, modify, or rescind the proposed disciplinary action. The administrator may not be a party to the proposed disciplinary action, either as the supervisor initiating the discipline or as a witness.

The purpose of the Pre-discipline Conference is to allow the employee an opportunity to respond to the charges. The Conference is not an evidentiary hearing. The employee will not be allowed to call or examine witnesses during the pre-discipline conference.

If the employee does not respond and request a Pre-discipline Conference within ten (10) calendar days of the date of the Notice of Intended Discipline, the Superintendent may move forward and submit the proposed disciplinary action to the Board for approval.

- E. Notice of Discipline and Right of Appeal

If the Superintendent decides to proceed with disciplinary action after the Pre-discipline Conference, or if no Pre-discipline Conference is held within the period to request and hold such a meeting as specified above, the Superintendent will provide the employee with a *Notice of Disciplinary Action* statement, which will include a clear statement of the charges and a statement of their right to appeal within fourteen (14) calendar days of their receipt of this notice. Such Statement will be delivered in person or by registered or certified mail with return receipt requested to the last known address of the employee.

The Statement will include the effective date of the disciplinary action, which will be no less than fourteen (14) calendar days after notice is mailed or delivered in person to the employee. An appeal by the employee does not preclude the implementation of discipline, pending the findings of the Commission.

Upon the issuance of the charges by the Superintendent, a copy of the *Notice of Disciplinary Action* statement will be provided to the Assistant Superintendent of Human Resource Services, who will immediately notify the employee of their right to appeal the Superintendent's action to the Personnel Commission, together with a copy of Rule 60.1000.4. The Assistant Superintendent of Human Resource Services will, within ten (10) calendar days of the Superintendent's notice, report the action to the Personnel Commission.

F. Suspension Pending Appeal

Notwithstanding the procedures prescribed above, an employee may be suspended for not more than thirty (30) calendar days, except at the discretion of the Superintendent as provided in Rule 60.1000.3 G. prior to exhaustion of the appeal process. Such suspension pending appeal will take place if the Superintendent determines that the employee's continued presence poses a threat to the safety of people or property.

The employee will be provided an opportunity to meet with the Superintendent, or designee, regarding such immediate suspension, and may have their legal counsel or representative present.

G. Charge of Sex or Controlled Substance Offense

An employee may be immediately suspended without pay if charged with the commission of any sex offense or narcotics offense as defined in Education Codes 44010, 44011, 45304.

Such a suspension will be processed as an involuntary personal leave in accordance with the provisions of this rule relative to suspensions. The employee may receive compensation, as provided for in Education Code section 44940.5 if and during that time they furnish to the County Office a suitable bond, or other security acceptable to the Board. Such suspension will be reviewed by the Personnel Commission every ninety (90) calendar days.

- H. Dismissal will cause removal of the employee's name from all employment lists.
- I. Failure to appeal, as provided below, will make the action of the Superintendent final and conclusive.

60.1000.4 Appeal (Education Code Section 45305)

- A. A regular employee who has been suspended, demoted, or dismissed has the right to appeal to the Personnel Commission within fourteen (14) calendar days after receipt of the Statement by filing a written response to such charges and a request for a hearing. The written response and request for a hearing will be filed with the Human Resource Services Office.

There is no right of appeal from a written warning or reprimand.

- B. A permanent employee who has not served the full probationary period for the class to which they were promoted, and who is demoted to their former class, does not have the right to appeal such demotion. However, a permanent classified employee who has not served the full probationary period for the class to which promoted, and who is subject to disciplinary action that would result in the termination of their employment with the County Office will have the appeal rights described in this chapter for permanent employees.

60.1000.5 Pre-Hearing Conference, Witness Lists and Subpoenas

Prior to the Personnel Commission's formal hearing, the Assistant Superintendent of Human Resource Services, may hold a pre-hearing conference with the Superintendent's representative and the appellant and his /her representative (legal counsel, union representative, or another person designated by the employee), if any. The purpose of the pre-hearing conference, if held, includes, but is not limited to, the submission of witness lists, list of documents to be presented as evidence, request(s) for subpoena of witnesses or documents, and determination of the length of time required to conduct the hearing. Regardless of whether or not a pre-hearing conference is held, all witness lists and requests for subpoenas will be filed with the Assistant Superintendent of Human Resource Services at least seven (7) days before the date of the appeal hearing. This will allow the Personnel Commission time to secure the release of the employees called as witnesses prior to the hearing.

60.1000.6 Hearing Officer

The Personnel Commission may conduct hearings of appeals or may appoint a hearing officer to conduct the hearing and report findings and recommendations to the Commission. Any such Hearing Officer conducting such hearing or investigation may administer oaths, subpoenas, and require attendance of witnesses and production of documents.

The hearing officer will submit their findings of fact and written recommendations to the Assistant Superintendent of Human Resource Services within a reasonable time period

following the conclusion of the hearing. A “reasonable time period” is defined as not more than thirty (30) days, unless there are extenuating circumstances.

The hearing officer’s report will present a proposed decision in a form that can be adopted by the Commission if after review the Commission agrees with the finding of facts and recommendations of the hearing officer.

Upon receipt of the hearing officer’s written recommendations and findings of fact, the Assistant Superintendent of Human Resource Services will contact the Commission chair and schedule a Commission meeting to consider the findings of fact and recommendations of the hearing officer.

Upon request of the Commission the hearing officer may be present at the meeting where their recommendations are considered by the Commission and may advise the Commission and/or answer questions about finding of facts or the recommendations. After review of the findings of facts and the recommendations, the Commission may accept, reject or amend the recommendations and/or findings of the hearing officer.

60.1000.7 Hearing Procedure (Education Code Section 45312)

- A. Upon receipt of a written request for a hearing, the Personnel Commission will determine the date, time, and place of the hearing.
- B. Hearings will be conducted in the manner most conducive to determination of the truth, and neither the Commission nor its hearing officer will be bound by technical rules of evidence. Finding of facts, recommendations and decisions made by the Commission or its hearing officer will not be invalidated by any informality in the proceedings.
- C. The Personnel Commission or its hearing officer will determine the relevancy, weight, and credibility of testimony and evidence. It will base its findings on the preponderance of evidence.
- D. Each side will be permitted an opening statement (Superintendent first) and closing arguments (employee first). The Superintendent will first present its witnesses and evidence to support the charges and the employee will then present their witnesses and evidence in defense.
- E. Each side will be allowed to examine and cross-examine witnesses. The appellant may be called to testify and the appellant may be cross-examined just as if they had testified on their own behalf.

The policy of the Personnel Commission will be that where possible, all witnesses will give testimony orally, under oath at the hearing. However, if in the opinion of the Commission or its hearing officer, a witness has good and sufficient reason for being unable to be present at the hearing; either video conference equipment may be used to provide live testimony and cross examination from a remote location or written testimony may be accepted by the Commission or its hearing officer.

Written testimony may be accepted under the following conditions:

1. Such evidence will be submitted by sworn affidavit of the witness
 2. The affidavit will be confined to a statement of facts bearing on the case and within the direct knowledge of the witness, and will not contain any conclusions of the witness, except that a witness who qualifies as an expert witness may express their opinion based upon the facts, which they have recited.
 3. The Personnel Commission or their hearing officer may reject any affidavit that does not comply with the above requirements.
 4. Copies of all such affidavits will be filed with the Human Resource Services office at least seven (7) days before the hearing date and the affidavits may be inspected by either party prior to the hearing.
 5. At the hearing either party may object to the introduction of the affidavit and the Commission or its hearing officer will rule on the objection.
 6. Either party may request a continuance so that the witness is available to testify and be cross-examined. The Commission or its hearing officer will rule on such request for a continuance.
- F. The Personnel Commission or its hearing officer will rule on objections raised by either party.
- G. Both the Superintendent and the employee will be allowed to be represented by legal counsel or other designated representative. If the employee files an appeal, they will be required to attend the Commission Appeal Hearing, even if the employee's designated representative appears on their behalf. If the employee fails to appear, the employee will be determined to have forfeited their right of appeal and the Personnel Commission will allow the disciplinary action to stand.
- H. The Commission may and will, if requested by the Superintendent or the employee, subpoena witnesses and/or require the production of records or other material evidence.
- I. Prior to or during a hearing, the Commission may grant a continuance for any reason it believes to be important to reaching a fair and proper decision.

Except in case of an emergency, a request for a continuance by either party prior to the start of a hearing must be made at least seventy-two (72) hours before the start of the hearing.

The request must be in writing with a clearly stated reason for the continuance.

A continuance will only be granted if there is a compelling reason as determined by the Assistant Superintendent of Human Resource Services.

Denial of a request for a continuance may be appealed in writing to the Personnel Commission within five (5) days of the denial of the request.

- J. All discipline hearings before the Personnel Commission or a hearing officer will be in closed session, unless the appealing employee requests an open hearing in their appeal request. For any hearing, the Commission or its hearing officer will exclude from the hearing all witnesses not under examination, except for the appellant, County Office representative, and their respective counsel or designated representative, and the Assistant Superintendent of Human Resource Services.
- K. Whether the hearing is held in a public or closed session, the Commission, after it concludes the hearing, may deliberate its decision in closed session.

No persons other than members of the Commission, its counsel, its hearing officer, and its staff will be permitted to participate in the deliberations. If the Assistant Superintendent of Human Resource Services or any staff is not serving full-time for the Commission and/or was a witness in the proceedings, they will also be barred from the Commission's final deliberations. The same person will not represent the Superintendent and act as counsel to the Personnel Commission.

- L. The Commission will render its judgment as soon after the conclusion of the hearing as possible, and in no event later than fourteen (14) calendar days. Its decision will set forth which charges, if any, are sustained and the reasons therefore. The Commission's order of judgment will be reviewed and signed by the Chair of the Commission and then distributed to the appellant and the Superintendent, and will set forth the Commission's findings and decision. If the Superintendent's action is not sustained, the Commission's decision will set forth the effective date of the action ordered by the Commission.
- M. 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. The date the disciplinary action was implemented by the Superintendent, pending the hearing, will remain in effect unless overturned or modified by the Commission.
- N. The employee or their representative may obtain a copy of the transcript of the hearing, upon written request and agreement to pay for necessary costs.

CHAPTER 70 - WAGE AND SALARY PROVISIONS

70.100.0 DETERMINATION OF SALARY SCHEDULES.

70.100.1 Factors in Salary Determination

The Assistant Superintendent of Human Resource Services will prepare recommendations for all new classified positions for approval by the Commission. These recommendations will take into account the following factors:

- A. If available, wages and salaries paid for similar work in private industry in the recruitment area;
- B. Wages and salaries paid by other governmental agencies, including local school districts, which may be in competition in the labor market within the local geographical area;
- C. The principle of like pay for like work within the classified service;
- D. Appropriate differentials between related classes to reflect differences in duties and responsibilities, as established in the classification plan;
- E. Such other information as the Commission may require.

70.100.2 Salary Studies

- A. A salary review or study will be made:
 - 1. Whenever a new class is created;
 - 2. When directed by the Commission.

70.100.3 Salary Recommendations (Education Code Section 45268)

The Personnel Commission will set and maintain reasonable relationships between the salaries of the various classifications. The Commission may make modifications to these relationships as part of its statutory obligations after the County Office administration and any exclusive bargaining agent that represents the impacted employee(s) have had an opportunity to comment on any salary modifications.

- A. After making its findings, the Commission will present salary recommendations to the Superintendent. The Superintendent may approve, amend, or reject the recommendation, but may not alter the relationships among classes, as established by the classification plan.
- B. A salary recommendation will also be made each time a new class is created. Salary recommendations at other times of the year will be based on clear evidence that the class in question is substantially overpaid or underpaid in relation to community rates or alignment with other classes, including a total compensation approach to

salary and benefits. Nothing in this paragraph will prevent adjustments in salary, based on classification studies resulting from changes in duties and responsibilities, regardless of when such changes occur.

- C. By adoption of this rule, the Superintendent reserves the right to increase the salaries of classified employees at any time during the school year, pursuant to Education Code Section 45162, in accordance with its approval of the recommendations of the Personnel Commission.

70.100.4 Appeals of Recommendations

- A. An employee or their representative may appeal the recommendation of the Assistant Superintendent of Human Resource Services in regard to the salary of their class. They will have the opportunity to present their case, in writing and/or orally, at a regular meeting of the Commission. The Administration will have the same opportunity.
- B. If the Superintendent desires reconsideration of salary recommendations, they may return the recommendations to the Commission, which will reconsider them at its next meeting. After reconsideration, the Commission will advise the Superintendent of its findings and the reasons therefore.

70.200.0 APPLICATION OF SALARY SCHEDULES

70.200.1 Salary Upon Initial Employment

- A. Appointment
Except as otherwise provided in these Rules, appointment to any position in any class will be made at the minimum rate, and advancement to rates greater than the minimum rate will be by successive steps in the salary range for the class.
- B. Steps
Whenever the number for the salary range allocated to a particular class of position is followed by Step 1, 2, 3, 4, 5, or 6, such number refers to the salary range step at which appointments to such class may be made.
- C. Advanced Step Placement
In exceptional cases, and after reasonable effort has been made to hire employees for a particular class at the minimum rate, employment of individuals who possess special qualifications higher than the minimum qualifications prescribed for the particular class may be authorized by the Personnel Commission at Step 2 or Step 3 of the salary range for that class. The Assistant Superintendent of Human Resource Services will provide the Commission with an evaluation of the qualifications of each such individual and an analysis of the exceptional circumstances, which may occasion consideration of such authorization.
- D. Restoration

Any full-time or continuing part-time employee who has resigned in good standing and who is reemployed on a full-time or continuing part-time basis in the same class or a closely related class in the same salary range or in a lower salary range, within thirty-nine (39) months of their resignation, may, upon approval by the Personnel Commission and the County Superintendent, be paid in the appropriate salary range at the salary step at which they were paid at the time of resignation. (See Rule 60.300.3 and Education Code Section 45309.)

70.200.2 Anniversary Dates

The anniversary date of each classified employee will be recognized as July 1 of each year, except as otherwise provided below.

- A. Each employee will have an annual anniversary date, which will be determined as hereinafter provided. Each employee's anniversary date will be July 1, until such time as the provisions of these Rules may act to change such anniversary date.
- B. The first anniversary date of a new employee will be the first day of the calendar month next following completion of a six (6) months probation period (twelve (12) months for classified management), and then July 1 of the following year thereafter, except as provided in paragraph K. below.
- C. The first anniversary date of an employee who is promoted will be the first day of the calendar month following completion of a six (6) months probation period, or twelve (12) months for classified management, and then July 1 of the following year thereafter, except as provided for in paragraph J. below.
- D. The first anniversary date of an employee who is demoted will not be changed as a result of such demotion, except that an employee who is promoted and subsequently demoted will reassume the anniversary date, which they had prior to promotion.
- E. The anniversary date of an employee who is transferred to a class allocated to the same salary range will not be changed as a result of such transfer.
- F. The anniversary date of an employee whose class is reallocated from one salary range to another will not be changed as a result of such reallocation.
- G. In the case of a provisional employee or an employee who is serving a probationary period on their anniversary date, such anniversary date will be deferred until the first day of the calendar month next following completion of a probationary period of six (6) months (twelve (12) months for classified management) or longer in the particular class.
- H. For each employee whose step advancement is postponed by their Division/Department Lead or the County Superintendent, their anniversary date will be changed to the date to which the advancement is postponed.
- I. The anniversary date for all classified management will be July 1. Such an anniversary date will not affect a change in the probationary period. Classified

management will receive a step advancement on the first day of the calendar month following successful completion of twelve (12) months probationary period.

- J. Classified management, who receive their first step advancement upon completion of their probationary period between July 1 and January 1, will receive a subsequent step advancement on July 1. All subsequent step advancements will be on July 1.
- K. Classified management, who receive their first step advancement between February 1 and June 30, will receive their subsequent step advancement on July 1 of the second calendar year. All future step advancements will be on July 1.

Whenever the effective date of employment, reemployment, or promotion is between the first (1st) and fifteenth (15th) (inclusive) of a month, it will be treated for the purpose of this subsection in the same manner as the first calendar day of that month, and credit will be given for the full month of service. If the effective date of employment, reemployment, or promotion is between the sixteenth (16th) and thirty-first (31st) (inclusive) of a month, it will be treated for the purpose of this subsection in the same manner as the first calendar day of the following month, and credit will begin the following month.

For Teaching Assistants, the anniversary date will be July 1. Such an anniversary date will not affect a change in the probationary period or the Teaching Assistant's entitlement to a step increment upon successful completion of their probationary period.

Teaching Assistants who receive their first increment between November 1 and June 30 will receive a subsequent increment in the following school year, effective July 1. Teaching Assistants who receive their first increment between July 1 and October 31 will receive a subsequent increment in the same school year on July 1.

70.200.3 Step Advancement within Salary Range

Merit salary adjustments (salary step advancement) will not be granted automatically, but must be based upon satisfactory performance by the employee as documented by their most recent job performance evaluation. An employee will be notified by their immediate supervisor in writing of any denial of a salary step advancement with the reasons for the denial.

Step Advancement:

- A. Anniversary Date:

For the purposes of salary step advancement, the anniversary date of each classified employee will be recognized as July 1 of each year. The aforementioned employee must have successfully completed her/his probationary period.

All subsequent earned step advancements will be made on July 1 of subsequent years unless otherwise provided by the contract terms or merit system rules. No such advancement will be made without a written approval by the Sonoma County Superintendent of Schools.

B. Years of Service:

Classified Confidential Employees:

There will be a six (6) step salary advancement (Steps 1, 2, 3, 4, 5, and 6) within the salary range for classified confidential employees of the Sonoma County Office of Education.

On July 1 of each fiscal year classified confidential employees who will complete their 7th, 10th, 15th, or 20th year of employment within said fiscal year, are entitled to additional compensation for completed years of service as follows:

On July 1, classified confidential employees who will be in their 8th, 11th, 16th and 21st milestone year of service shall receive a 5% longevity increase. Each five percent (5%) increase calculation is compounded.

Whereas some employees begin on a step other than step one (1), it is important to note that the statement above applies to all employees. For example, if an employee begins on step three (3) and progresses one step each year, they will remain on step six (6) until the conditions above are met before receiving the additional compensation for additional years of service.

Classified Management Employees:

There will be a six (6) step salary advancement (Steps 1, 2, 3, 4, 5, and 6) within the salary range for classified management employees of the Sonoma County Office of Education.

On July 1 of each fiscal year classified management employees, hired into management positions prior to September 1, 2007, who will complete their 10th or 15th year of classified management employment within said fiscal year, are entitled to additional compensation for completed years of service as follows:

On July 1, classified management employees who are on the top salary step (Step 6) of their current salary range shall receive a 5% longevity increase at the beginning of their 11th or 16th year of classified management employment within said fiscal year. Each five percent (5%) increase calculation is compounded.

Classified management employees, hired into management positions after August 31, 2007, are not entitled to additional compensation for years of service.

- C. The County Superintendent will, not less than two (2) weeks prior to the anniversary date of July 1st, inform the Assistant Superintendent of Human Resource Services, in writing, if they do not approve the advancement to the next higher step for a specific employee. The Superintendent may specify that the advancement be postponed for one (1) or more months, not to exceed six (6) months deferment.
- D. No step advancement will be made for provisional employees or for employees serving probationary periods.

E. Golden Bell/Service Award Monetary Compensation:

1. A non-management classified employee who received either the Golden Bell Award or Service Award prior to July 1, 2013 automatically qualified to receive the special salary adjustment of 5% salary increase. These employees will continue to do so throughout their employment tenure at Sonoma County Office of Education.
2. Effective July 1, 2013 all future Sonoma County Office of Education Golden Bell and Service Award recipients, regardless if they are classified, certificated, or management employees, will receive a one-time only stipend of \$1,000.00 for the year in which they were recognized. Employees will be eligible to receive more than one Golden Bell or Service Award during their employment with Sonoma County Office of Education.

70.200.4 Salary Upon Promotion

A. Salary Upon Promotion Between Classes Within the Same Represented Classified, Classified Confidential, or Classified Management Employee Unit:

An employee who is promoted to a position of a class in the same employee unit that is allocated to a higher salary range than the position from which they were promoted, will be placed on the salary step of the new range that provides a five percent (5%) increase over their salary step placement prior to promotion (inclusive of additional steps or add-ons for completed years of service). Such placement will not be less than the salary of Step 1, nor exceed the top salary step (Step 6) of the salary range for the new position. *If so entitled, the employee shall continue to receive additional compensation for years of service as noted in Merit Rule 70.200.3B.* Such promotion will be independent of any reallocation of the class to which promotion is made.

B. Salary Upon Promotion Between Classes from the Represented Classified Unit to the Classified Confidential Unit or from the Classified Confidential Unit to the Represented Classified Unit:

An employee who is promoted from a position in the Represented Classified Unit to a position in the Classified Confidential Unit, or from the Classified Confidential Unit to the Represented Classified Unit, that is allocated to a higher salary range than the class from which they were promoted, will be placed on the salary step of the new salary range that provides a five percent (5%) increase over their salary step placement prior to promotion (inclusive of additional steps or add-ons for completed years of service). Such placement will not be less than the salary of Step 1, nor exceed the top salary step (Step 6) of the salary range for the new position. *If so entitled, the employee will continue to receive additional compensation for years of service as noted in Merit Rule 70.200.3B.* Such promotion will be independent of any reallocation of the class to which promotion is made.

- C. Salary Upon Promotion Between Classes from the Represented Classified Unit or the Classified Confidential Unit to the Classified Management Unit:

An employee who is promoted from a position in either the Represented Classified Unit or the Classified Confidential Unit to a position in the Classified Management Unit that is allocated to a higher salary range than the class from which they were promoted, will be placed on the salary step of the new salary range that provides a five percent (5%) increase over their salary step placement prior to promotion (inclusive of additional steps or add-ons for completed years of service.) Such placement will not be less than the salary of Step 1, nor exceed the top salary step (Step 6) of the salary range for the new position. *In regards to entitlement to additional compensation for completed years of service see Merit Rule 70.200.3B for classified management employees.* Such promotion will be independent of any reallocation of the class to which promotion is made.

70.200.5 Salary Upon Demotion

- A. Voluntary Demotion

A regular employee may request, in writing, a voluntary demotion to a class with a lower maximum salary rate. Such requests require the approval of the Superintendent. The salary paid to an employee who requests a voluntary demotion will be paid in accordance with the existing applicable contract provisions. If no contract provision applies, the employee may request that their salary be Y-rated. Such Y-rate requests will be reviewed on a case-by-case basis and will be approved or denied by the Superintendent.

- B. Involuntary Demotion

An employee who is demoted to a position of a class allocated to a lower salary range than the class from which they are demoted will have their salary reduced to the salary in the range for the new class next lower than the salary they received before demotion. Such demotion will be independent of any reallocation of the class to which demotion is made or of any step advancement to which the employee may be entitled through resumption of a former anniversary date.

70.200.6 Salary Upon Transfer

- A. In case of the transfer of an employee from one position to another in the same class or to another class to which the same salary range is applicable, the employee will continue to receive the same salary. Such transfer will be independent of any reallocation of the class to which transfer is made.
- B. When appointed to a permanent position with the County Office with approval of the Superintendent, each employee, whose name appeared on the employment list due to a program transfer, will be allowed to have their service with the transferring district counted in determining step placement on the salary range for the Sonoma County Office of Education classification.

- C. The above rule, B., does not preclude the Personnel Commission under Merit System Rule 70.200.1 C. from initially hiring an employee on Step 2 or Step 3 of the salary range if they possess special qualifications and other conditions are met.

70.200.7 Salary on Reallocation of Class

An employee in a position of a class which is reallocated from one (1) salary range to another will be compensated at the same step in the new salary range as they were compensated in the range to which the class was previously allocated, except when such a reallocation would cause the employee to have a lower salary, in which case the incumbent's salary will be Y-rated.

70.200.8 Salary on Reclassification of Position

- A. The salary of an incumbent of a position, who is reclassified to a different class, will be compensated at the same step of the salary range for the new class as the step at which they were compensated for in the former class. This provision will not apply in the event a position in one (1) class is abolished and replaced by a position in a different class. (See Rule 30.200.11.)

If, as a result of the reclassification, the salary range for the new class has a lower maximum salary rate than the employee's former class, the salary will be paid in accordance with the existing applicable contract provisions. If no contract provision applies, the employee may request that their salary be Y-rated. Such Y-rate requests will be reviewed on a case-by-case basis and will be approved or denied by the Superintendent.

- B. Y-Rating

Whenever the effect of voluntary demotion, reallocation, or reclassification reduces the salary of an incumbent, and the employee is entitled to Y-rating, a capital "Y" will be set opposite the position in the departmental budget and on all payroll and other personnel records. Wherever a capital "Y" is set opposite a position, the incumbent will continue to receive their previously authorized salary until termination of their employment in the position or until a higher rate of pay is recommended by the Superintendent and authorized by the Personnel Commission.

- C. Y-Rating Applied

Whenever an employee is Y-rated, a separate salary schedule will be created using the dollar amount paid to the employee at the time of the Y-rating, i.e., the salary paid to the employee prior to the event (voluntary demotion, reallocations, or reclassification) that created the Y-rating.

An employee whose pay is Y-rated will not be eligible for any cost-of-living adjustment, bonus, one-time only payment, range, or step adjustment until one (1) or more of the following occurs:

1. The salary range for the employee's new job classification is equal to, or exceeds, the dollar amount being paid to the employee under the Y-rating; or

2. A higher rate of pay is recommended in writing for the specific employee by the Superintendent and approved by the Personnel Commission.

70.200.9 Salary Differential Pay

(Education Code Sections 45110-45180, et seq.)

- A. Except as otherwise provided in the collective bargaining agreement, the regularly assigned time for any position which requires the employees to work one-half (1/2) time or more of their shift between the hours of 4:00 p.m. and 7:00 a.m., will be entitled to receive an increase in basic salary equal to seven percent (7%) or more, as recommended by the Personnel Commission and approved by the Superintendent. No changes in salary range or step and anniversary dates are to be made, and the approved increase in salary will remain effective only during the time in which the employee is assigned to the job requiring these work hours.

- B. **Working Out of Class:**

In special cases, whereby employees in a classification are required to temporarily perform the tasks of a higher-level position due to a vacancy or absence in that position and to do so will be temporarily relieved of all duties of their current position, these employees may be granted up to five percent (5%) additional compensation to their current salary range and step. No change in anniversary dates will be made, and the additional approved increase to the salary will remain effective only so long as the unusual condition exists, but no longer than 960 hours consecutively. The increase is reportable as compensation to CalPERS and the appointment must follow the rules outlined in CA government code 20480.

In order for the increase noted above to be granted, the Department Director must recommend, in writing, to the Superintendent, who, in the event they approve, will send the recommendations to the Personnel Commission through the Assistant Superintendent of Human Resource Service Services. If the Personnel Commission approves the requested differential pay, it will notify the Assistant Superintendent of Human Resource Services for payment.

- C. **Stretch Assignments Or Temporary Upgrades:**

In special cases, where an employee continues to perform most or all of the duties of their position and is required regularly to perform tasks outside of their job description, and not of sufficient scope or breadth to require reclassification, these employees may be granted up to five percent (5%) additional compensation to their current salary range and step. No change in anniversary dates will be made, and the additional approved increase to the salary will remain effective only so long as the unusual condition exists. The increase in pay is reportable as special compensation under CalPERS rules.

It is important to note that there are two types of temporary upgrades that CalPERS recognizes. The two types are noted below with their CalPERS implications:

1. Temporary Upgrade Pay is a special pay item, which applies to such cases as in extended medical leave and does not contribute to final retirement calculations. (CCR 571)
2. Out of Class pay only applies to when an employee is temporarily working in a vacant position and has been relieved of all duties in their former position. This type of situation does contribute to CalPERS calculations for final compensation for retirement. (AB1487 and Government Code 20480)

70.200.10 Definitions

School Year: The school year begins on the first day of July and ends on the last day of June (Education Code Section 37200).

School Term: Number of work days, including authorized paid holidays, during the period in which school is in session, plus the prorated number of vacation days.

Annual Earnings: Total amount employee would earn if they completed the school year or school term at a given monthly salary rate.

Days for Pay Purposes: Total number of days actually worked, including authorized paid holidays, plus the prorated number of vacation days allowed.

70.300.0 HOURS OF WORK (Education Code Section 45127)

(Also see Collective Bargaining Agreement).

70.300.1 Work Day and Work Week

Work Week:

The normal work week of full-time classified employees will be forty (40) hours.

Work Day:

The normal workday of full-time classified employees will be eight (8) hours exclusive of lunch.

Reduced Work Day / Work Week:

The County Office may establish a workday of less than eight (8) hours per day and a work week of less than forty (40) for some or all classified positions.

Work Schedule:

The County Office may establish alternative work schedules to meet the program needs.

70.300.2 Overtime (Education Code Section 45128)

- A. Overtime is defined to include any time required to be worked in excess of forty (40) hours in any established work week, or more than eight (8) hours in an established work day, excluding a duty-free lunch period, unless the employee is working an approved alternate work schedule of more than eight (8) hours per day.

- B. Except as otherwise expressly provided for by the Superintendent, any person employed in any class or position may be required to work in excess of the regularly established hours of work when so requested or authorized by the Superintendent. This extra work may be required on any day, including Saturdays, Sundays, and holidays. Employees so working will be compensated either by the granting of compensatory time off or paid in cash therefore.

70.300.3 Compensation for Overtime (Education Code Sections 45128 & 45129)

- A. Compensation for overtime will be made in cash or time off at the rate of one and one-half (1 1/2) times the normal rate.
- B. The Assistant Superintendent of Human Resource Services and/or the Payroll Department will maintain a detailed record of all overtime work.
- C. All overtime for which compensatory time off is to be granted must require prior approval of the Assistant Superintendent in charge of the respective division. All overtime pay must require prior approval by the Superintendent, or their designee, and such payment will be made only for overtime work subsequent to the date of approval by the Superintendent, or designee, except as may be provided by law in the event of critical emergency.

70.300.4 Exempt From Overtime (Education Code Section 45130)

All positions that qualify as executive, administrative, and professional may be exempt. The regular rate of pay will be considered full compensation for all time that is required of the employee to perform the duties of their position.

However, if an employee in this group of positions is required to work on official holidays, as listed in Section 70.400.2 of this rule, they will be granted compensatory time off equal to the actual number of hours worked.

70.300.5 Rest Periods

Except as otherwise provided in the collective bargaining agreement, the Superintendent must authorize rest periods of ten (10) minutes, which insofar as practicable will be in the middle of each work period. The authorized work period will be based on the total hours worked daily at the rate of ten (10) minutes per four (4) hours or major fraction.

However, a rest period need not be authorized for employees whose daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time will be counted as a part of the hours of work, for which there will be no deduction in pay.

Rest periods must be taken at the assigned worksite, unless prior approval has been obtained from the immediate supervisor.

70.300.6 Duty Free Meal Periods

Except as provided in Rule 70.300.7 each employee who is scheduled to work over five (5) consecutive hours per day will be assigned an unpaid, uninterrupted meal period of at

least thirty (30) minutes, and up to one (1) hour. Whenever possible, the meal period will be assigned at or about the midpoint of each work shift.

70.300.7 Available-For-Duty Meal Period

An employee may be assigned to an available-for-duty meal period if the demands of the program so require. The employee will be provided an opportunity to eat their meal, but must be available to perform duties and remain on-site. The employee will be paid their normal rate of pay for all available-for-duty meal periods.

70.400.0 LEAVES OF ABSENCE (Education Code Section 45203)

(Also see Collective Bargaining Agreement)

Sonoma County Office of Education will follow all applicable laws and regulations related to Leaves of Absences.

70.400.1 General Provisions

A. Failure to Report for Duty:

Failure to report for duty or to report a valid absence within five (5) working days will be considered abandonment of position and the employee may be terminated. Such termination will be considered as termination for cause. This provision is also applicable to the situation in which an employee has been released for duty after a medical leave.

B. Absent Employees May Not Accept Paid Employment

An employee, while on a leave of absence (paid or unpaid) from the County Office, may not, and must not, accept paid employment with another employer, except ordered military service, without the express prior approval of the Superintendent. An employee may take an approved leave from their regular assignment to serve in another position with the Sonoma County Office of Education.

C. Verification of Leaves

The County Office will have the right to require verification of all leaves requested and taken by an employee.

D. Employee Required to Maintain Licenses and Certificates

Any required license or certificate held by the employee at the time a leave (paid or unpaid) is granted must be maintained and valid at the time the employee returns to active service with the County Office. If the employee does not have the license or certification, the employee may be placed on unpaid leave of absence until the license or certificate is received or the employee may be terminated.

70.400.2 Holiday Pay - Paid Leave of Absence

Authorized paid holidays which occur during the period in which an employee is on a paid leave of absence will be paid as holiday pay and will not be deducted from any paid leave days to which the employee is entitled by law or the provisions of these Rules and Regulations.

70.400.3 Authorized Holidays

Unless otherwise provided by the County Board or by law, holidays with full pay will be granted annually for all regular employees on the following days

New Year's Day	
Martin Luther King Day	(observed the third Monday in January)
Lincoln Day	(date of observation determined annually)
President's Day	(observed third Monday in February)
Memorial Day	(observed last Monday in May)
Juneteenth	(normally observed on June 19 th)
Independence Day	(normally observed on July 4 th)
Labor Day	(observed first Monday in September)
Veterans Day	(observed on November 11 th , unless otherwise approved by the Superintendent and Board.)
Thanksgiving Day and day	(the fourth Thursday & Friday in November)
Following Thanksgiving Day	
Christmas Eve	(normally observed on December 24 th)
Christmas Day	(normally observed on December 25 th)
New Year's Eve	(normally observed on December 31 st)
Two (2) floating holidays	(employee may choose, with prior supervisor approval)

Such other days, or portions of days, as may be designated by the Superintendent, the County Board, the Governor of California, the President of the United States, or other proper authority.

- A. When a holiday falls on a Sunday, the following Monday will be deemed to be the holiday in lieu of the day observed, unless Monday is also a holiday. If Monday is also a holiday, the holiday falling on Sunday will be observed on the preceding Friday, unless Friday is also a holiday. If Friday is also a holiday, then the holiday will be observed on the preceding Thursday. Example: Christmas Eve falls on Sunday and Christmas Day falls on Monday, the holidays will be observed on the preceding Friday and the following Monday.

When a holiday falls on a Saturday, the preceding Friday will be deemed to be the holiday in lieu of the day observed, unless Friday is also a holiday. If Friday is also a holiday, the holiday falling on Saturday will be observed on the preceding Thursday. Example: Christmas Eve falls on Friday and Christmas Day falls on Saturday, the holidays will be observed on the Thursday and Friday preceding the Saturday).

Notwithstanding the above, employees assigned to Special Education, Alternative Education and Student Services, SELPA and Sonoma Developmental Programs will work the calendars of the programs to which the employee is assigned. The operation of this provision will not cause the loss of any of the above holidays. When a classified employee is required to work on any of said holidays, they will be paid compensation or given compensatory time off for such work, in addition to the regular pay received for the holiday at the overtime rate. (NOTE: This means regular pay or time, plus one and one-half (1 ½), or a total of two and one-half (2 ½) times regular pay or time.)

- B. All regular employees, full-time and permanent part-time, who are not normally required to work during the holiday periods listed in A. above, will receive their normal rate of pay for those holidays, provided they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday periods mentioned.
- C. In the interests of uniformity in the operation of County Government, days off with pay may be granted to employees for holidays proclaimed for County employees by the Board of Supervisors of the County of Sonoma.

70.400.4 Exchange of Holidays by Superintendent Action

- A. The County Superintendent may, prior to July 1 of any year, specify, if so authorized in law, that schools will be maintained and classified employees are required to work on any or all of these holidays:

Lincoln Day, President's Day, Memorial Day, and Veterans Day.

- B. If the County Superintendent lawfully takes such an action, they will designate another day, during the same school year, as a holiday for classified employees in lieu of the regular, normal holiday.
- C. In Lieu Holiday
 - 1. The day specified as the "in lieu" holiday will be a day when all classified employees, who could normally have established eligibility for the regular holiday, will also be able to establish eligibility for the "in lieu" holiday.
 - 2. The day designated as an "in lieu" holiday will provide classified employees with at least a three (3)-day weekend.
- D. If the Superintendent fails to comply with Rule C. 1. above, employees who will not normally be able to establish eligibility for the "in lieu" holiday and who are required to work on the regular holiday will be paid, in addition to the normal pay for the holiday, at the rate of time and one-half (1/2) for time required to be worked.

70.400.5 Vacation Leave (Education Code Section 45197)

(Also see Collective Bargaining Agreement):

- A. Each full-time employee, other than an emergency or limited-term employee, will accrue vacation leave with full pay as provided herein. Each employee may accrue a maximum of thirty (30) working days of unused vacation leave, unless otherwise provided in the collective bargaining agreement.

Regular employees working less than full-time earn pro-rated vacation benefits based upon the ratio of their normal work schedule to a full-time schedule of eight (8) hours per day and forty (40) hours per week.

Except in special cases, as determined by the Superintendent, no employee may take such leave or receive payment in lieu thereof until they have completed six (6) months of continuous service in the Sonoma County Office of Education.

No employee will accrue any paid vacation leave for any period of leave without pay, absence without leave, or suspension.

Regular employees will accrue vacation as follows:

1. Each such employee will accrue vacation leave at the rate of twelve (12) working days per year until they have completed five (5) years of service.
2. Each such employee who has completed five (5) years of service and through ten (10) years of service will accrue vacation leave at the rate of fifteen (15) working days per year.
3. Each such employee who has completed ten (10) years of service and through fifteen (15) years of service will accrue vacation leave at the rate of eighteen (18) working days per year.
4. All employees who have completed fifteen (15) years of service or more will accrue vacation leave at the rate of twenty-one (21) working days per year.
5. For the purpose of determining years of service, all such employment of one (1) year or more in any California school district and not separated by a break in service greater than thirty (30) days, may, at the discretion of the Superintendent, with the approval of the Personnel Commission, be construed as service creditable toward the requirements stated above.
6. Certain classified positions may be designated as executive, administrative, and professional by the Personnel Commission "when applicable" or the Governing Board. (See Rule 70.300.4 and Education Code Section 45130).

Personnel employed in these positions will receive the regular rate of pay in accordance with the classification and salary allocation chart, as approved by the Superintendent, and which will be considered full compensation for all time that is required of the employee to perform the required duties of their position, without reference to overtime.

In recognition of the requirements and limitations thus imposed on these specific employees, their annual vacation leave will accumulate at the rate of twenty-one

(21) working days per year, without regard to the total number of years of continuous service with the Sonoma County Office of Education.

7. An employee in paid status as of the 15th of the month or later will receive vacation credit for that month.

B. Vacation schedules will be arranged by Department Heads, with particular regard to the needs of the service and, whenever possible, with regard to the wishes of the employees. Every effort will be made to arrange vacation schedules, so that each employee will take as much vacation in each year as accrued to them in that year.

Each employee's vacation time may be divided as the needs of the service require or permit, except that the County Office will make every effort to provide employees the opportunity to take at least one (1) week of uninterrupted vacation time each year. No employee may take vacation leave without advance approval of the Superintendent or their designated representative.

No employee may take vacation leave in advance of that actually accumulated by them at the time such leave is taken without the written recommendation of the Department Head concerned and approval of the Superintendent.

When an employee is restricted on use of vacation during a certain month, or months, of the year due to needs of the County Office, the County Office will make every reasonable effort to be flexible in accommodating the employee's request(s) to use vacation during the remaining months of the year.

C. Each employee who is separated from employment after completing six (6) months of continuous service with this office will be entitled to payment in lieu of all unused vacation leave which they may have accumulated as of their last day of work. (Education Code Section 45197(h).) In the event of a deceased employee, payment therefore will be made to their estate, or as otherwise provided by probate law.

D. When an employee has accumulated the maximum allowable vacation credit, and when a critical emergency prevents their being off duty, the nature and duration of the emergency will be reported to the Superintendent. The Superintendent may authorize payment in lieu of vacation earned above the maximum, or may permit the accumulation of excess vacation credit for the duration of the emergency.

E. Any regular classified employee who commences his prescribed vacation period and subsequently becomes ill or is bereaved before their vacation period has been completed, will be placed on sick leave under the following conditions:

1. If the illness or bereavement is for three (3) consecutive days or more;
2. If the illness or bereavement is such that had the employee been working, they would have been absent on sick or bereavement leave;
3. If the employee, normally, is required to return to duty immediately following the vacation period;

4. If the request is filed with the Superintendent within two (2) weeks of the illness or bereavement or within, at the latest, one (1) week of their return to duty, unless extraordinary, extenuating circumstances exist which prevent such filing;
5. If the filed request fully outlines the reasons for the request, and is fully substantiated to include medical reports in the case of illness;
6. When all or part of an employee's vacation is to be converted to illness or bereavement leave, the appropriate vacation credit will be restored to the employee's earned vacation balance. If possible, they will be granted the opportunity to consume this vacation credit in order not to exceed the limit on accrued vacation. In other cases, Paragraph D, above, may be applied in order to avoid loss of vacation credit.

F. **Vacation Rate of Pay**

All vacation will be paid at the employee's regular rate of pay earned in their permanent classification including any steps above step six (6).

70.400.6 Absence for Examination

Every employee in the classified service will be permitted to be absent from their duties during working hours in order to take an examination for promotion in the Sonoma County Office of Education without deduction of pay or other penalty, provided that they give two (2) days' notice to their immediate supervisor.

70.400.7 Military Leave

Sonoma County Office of Education provides military leave in accordance with Federal, State and local applicable law.
Education Code Section 44800.

70.400.8 Leave of Absence Without Pay

- A. Leave of absence without pay may be granted to a regular classified employee, upon the written request of the employee and the approval of the Superintendent or their designated representative, subject to the following restrictions.
 1. Leave of absence without pay may be granted for any period not exceeding one (1) year, except that leave of absence for military service will be granted, as provided by the Education Code and the Military and Veterans Code, and leave of absence for service in the Peace Corps, or the Red Cross, or Merchant Marine during time of national emergency may be granted for a period not to exceed twenty-four (24) months; and
 - a. The granting of a leave of absence without pay gives the employee the right to return to their position at the expiration of their leave of absence, provided that they are physically and legally capable of performing the duties.

- b. The position may be filled only for the duration of the leave, and the employee so assigned must be released or reassigned upon completion of the leave and return of the regular employee.
- B. The Superintendent may, for good cause, cancel any leave of absence by giving the absent employee due notification. The employee may appeal the cancellation to the Personnel Commission, which will investigate and hear the appeal. The appeal by the employee will stay the cancellation directive of the Superintendent until action by the Personnel Commission, which will be final and binding.
- C. An employee may make a written request to the Superintendent, to return to work prior to the expiration date of the leave. The Superintendent may approve or reject the request.
- D. Failure to Return:
Failure to report for duty within five (5) working days after a leave has been canceled or expires will be considered abandonment of the position, and the employee may be terminated by the Superintendent. The termination may be appealed to the Personnel Commission in the same manner as any other dismissal for cause. This provision is not applicable to military leave.
- E. If an employee cannot be placed in a vacant position in their class upon return from leave of absence, they will have bumping and reemployment rights, in accordance with their seniority, in the same manner as if they had been laid off for lack of work or lack of funds on the date their leave expired.

70.400.9

Leave Reporting

- A. Each Department Lead will promptly furnish the Assistant Superintendent of Human Resources with a report of each approved leave in their Department. The Assistant Superintendent of Human Resources will maintain a confidential record of all leave taken and the leave balances accumulated by each employee.
- B. Thirty (30) minutes is the minimum amount of time that will be reported and recorded for any absence.
- C. Absences from work required in order to have fingerprints recorded and physical examinations for employment purposes, written or oral examinations or tests, appointments, and interviews which may serve to advance the employee's status or position within the County School system, will not be chargeable against accrued leave.
- D. Absences from work required in order for employees to meet doctor or dentist appointment will be reported and charged against employee's accrued sick leave total.
- E. New employees appointed on a provisional or probationary basis will have vacation and sick leave credited from the original date of their first such appointment,

whenever the employees continue without a break in the service and subsequently receives a permanent appointment.

- F. Every absence of each employee will be reported and recorded in a manner prescribed by the Assistant Superintendent of Human Resources.

70.400.10 Medical or Psychological Exam

The County Office will have the right to have an employee examined by a state-licensed physician, at County Office expense, whenever there is a question as to the employee's physical, mental, or emotional ability to perform the duties and/or responsibilities of their position, regardless of whether or not the employee has claimed or received paid benefits under the provisions of these rules.

- A. **Return to Work After Illness or Disability**

When an employee is absent due to illness or disability, the Superintendent may require that the employee pass a medical examination prior to their return to work. Failure to pass such examination will result, after expiration of the employee's accumulated sick leave, in further leave with pay; leave without pay; and/or separation of the employee, as may be authorized in accordance with these Rules.

An employee who is off work, due to their own illness or injury, for more than five days the employee must be cleared by Human Resources to return to work. The employee must submit a release to return to work, indicating any restrictions, signed and dated by their health care provider to Human Resources.

- B. **Release Without Restrictions**

If the release to return to work contains no restrictions, Human Resources will notify the employee that they are cleared to return to work.

- C. **Release With Restrictions**

If the work release includes restrictions, Human Resources will work with the department to determine whether or not the employee can perform the essential functions of the position and if the restrictions can be accommodated. If a determination is made that the employee can perform the essential functions and the restrictions can be accommodated, Human Resources will clear the employee to return to work.

- D. If Human Resources and the department determine that the employee cannot perform the essential functions, and/or the restrictions cannot be accommodated, Human Resources will notify the employee and schedule a meeting to explore the employees' options.

70.400.11 Absence Due to Epidemics or Emergencies

An employee will be paid their regular salary for any period during which the employee's place of employment is closed due to quarantine, epidemic, or other conditions that may directly affect the health and safety of the employee; provided the employee is ready,

willing, and able to work and perform their customary or other reasonable and suitable duties – including serving as a disaster service worker during a man-made or natural disaster. During such times the County Office will make every effort to assign the employee to another work location.

Unless otherwise provided by law, the employee will be required to use sick leave if their health is directly affected, and the employee is physically or mentally unable to work due to exposure to a contagious disease or legally established quarantine.

70.400.12 Time Off to Vote

The County Office wants its employees to become registered voters and to exercise the right to vote, and encourages all of its employees to do so. If an employee does not have sufficient time outside of their working hours within which to vote at any general, direct primary or local election, the employee may, without loss of pay, request time off, which when added to his voting time outside of working hours, will enable the employee to vote. Such time will not exceed two hours, and will not be used for any purpose other than voting. To ensure compliance with this requirement, proof of voting may be required.

Except in case of emergency, an employee requesting time off for voting will provide their supervisor with at least forty-eight (48) hours advance notice of the need for time off and the amount of time needed. Additionally, the employee will make an effort to use time to vote at the beginning or end of their shift.

70.500.0 PAYMENT OF EMPLOYEES (Education Code Section 45166)

70.500.1 Time and Manner of Payment

- A. Regular Payroll: Each regular full-time employee will be paid once per month normally on the last working day of that month.
- B. Supplementary Payroll: Each emergency, limited-term, and hourly employee will be paid once per month on a supplementary payroll on the workday closest to the tenth (10th) day of the following month.

70.500.2 Approval of Payrolls (Education Code Section 45310)

- A. The Assistant Superintendent of Human Resource Services and/or the Payroll staff of the Business Services division will cause each payroll to be compared with the central roster of employees and positions to confirm the following data:
 - 1. Each employee's name, class, and rate of pay;
 - 2. The time worked by each employee;

3. The proper appointment of each employee in the position in which they are to receive pay.
- B. The Assistant Superintendent of Human Resource Services must promptly report any discrepancy to the Superintendent, who will withhold payment to the employee concerned, until a corrected payroll, which includes such employee, has been approved by the Assistant Superintendent of Human Resource Services.
- C. The Assistant Superintendent of Human Resource Services will approve each payroll change, causing their signature to be affixed thereto, thereby approving payment to each employee included thereon, for whom they have confirmed the data enumerated in this section.
- D. Whenever, after their approval of any payroll, the Assistant Superintendent of Human Resource Services will learn of any unreported discrepancy or of a separation, an absence, or other information which would reduce the amount to be paid any employee, they must immediately so inform the Superintendent, who will, wherever possible, withhold payment to the employee concerned until a corrected payroll, which includes such employee, has been approved by the Assistant Superintendent of Human Resource Services.

70.500.3 Official Roster

The Assistant Superintendent of Human Resource Services will maintain in their office an official roster containing the names and complete employment records of all employees holding positions under the provisions of the Act.

70.600.0 BENEFITS FOR REGULARLY EMPLOYED PART-TIME EMPLOYEES

- A. Except as provided in represented employee contracts, benefits for persons employed less than full-time are to be provided as authorized in Education Code Sections 45136, 45137, and 45197.
- B. Sick leave and all other benefits accorded members of the classified service are to be prorated on the basis of assigned hours worked per day as it bears to eight (8) hours, forty (40) hours per week, weeks per month, or months to a calendar year.
- C. If an employee works thirty (30) minutes or more for twenty (20) consecutive workdays in excess of their assigned time, the assigned time will be adjusted to reflect actual work time and become "assigned time".
- D. If Rule C. does not apply, but an employee works, on an average, fifty (50) or more minutes per day above the assigned time in any one (1) quarter, they will receive fringe benefits in the following quarter, based on the average actual time worked in the preceding quarter.
- E. Vacation - Unless vacation pay is provided on the basis of actual hours of paid regular service rather than on an assigned time basis, vacation pay will be granted on

the basis of the average number of hours worked in a school year by the part-time employee.

CHAPTER 80 - MISCELLANEOUS PROVISIONS

80.100.0 EMPLOYER-EMPLOYEE RELATIONS

80.100.1 General Provisions

The Board of Education, Superintendent of Schools, agents, and the Personnel Commission, its officers and agents, are governed, as are employees and employee organizations, by the provisions of Chapter 10.7, Division 4, Title 1, Section 3540 of the Government Code.

80.100.2 Strike or Engage in Other Concerted Labor Activity

A. Government Code Section 3549 specifically provides:

"The enactment of this Article will not be construed as making the provisions of Section 923 of the Labor Code applicable to public School employees."

This section means that public school employees may not strike against the County Office, nor may they engage in other related types of activities in order to attempt to resolve grievances or differences, real or fancied.

- B. Any employee or groups of employees, either by their own initiative or through an employee organization, leaving their duty assignment or refusing to perform or failing to report to duty as a result of a strike or other concerted labor activities may be considered as having abandoned their positions and, if dismissed, will not be eligible for reinstatement or subsequent employment with the County Office. The Superintendent may bring charges against any employee or employees for abandonment of position under this rule. (See dismissal rights for appeal process.)
- C. Any classified employee who absents themselves from duty, for any reason, during the period of an unlawful strike, sit-down, slowdown, or other concerted activities will be required to provide proper evidence that their absence was lawful and in no way an effort on the employee's part to further the strike or concerted activity.
- D. Any rule prescribed in this Act which permits personal or illness absences without evidence of necessity is suspended and void during any attempted strike or other concerted labor activity against the County Office.

80.200.0 POLITICAL ACTIVITY

80.200.1 Intent

It is the Commission's intent and purpose in enacting these Rules to allow employees their lawful privilege of political freedom and activity, but to ensure that political activities are not engaged in during normal duty hours and normal duty assignments. The Commission and County Office have a reasonable obligation to make certain that personnel are aware of their political rights and can exercise those rights, but at the same

time to ensure that its employees do not wrongfully use their duty hours or office facilities for political purposes.

80.200.2 Political Activity Freedom

Every classified employee may, during off-duty hours, participate in political activities not specifically prohibited by the Education Code. (See Education Code Sections 7050-7058.)

80.200.3 Cause for Disciplinary Action

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

- A. The use of any County Office property, equipment, or facility for any political purpose, unless the use thereof is authorized by law for such purposes, and the employee has obtained prior required approval.
- B. The use of any County Office property, equipment, or facility for any political purpose or the performance of any political act during regular hours of duty.
- C. Engaging in active campaigning on behalf of any candidate, including themselves, for public office, whether by speaking, soliciting funds or support, distributing handbills, or otherwise, during their assigned hours of employment, including paid break time.
- D. Attempting to gain any advancement or privilege under the Act or these Rules through political activity.

80.200.4 Personal Candidacy

Any employee may be a candidate for any political office for which they may file, without suffering any loss of employment status in the County Office, unless they violate the provisions of Rule 80.300.3, and except as provided for in Rule 80.300.5 B.

80.200.5 Leave of Absence

- A. An employee who files for a political office may request, and will be granted, an unpaid leave of absence, which will commence not earlier than one (1) month prior to the concerned election and continue until the election processes have been completed, insofar as their candidacy is concerned.
- B. Such leave is required if the employee is a candidate for election to the Governing Board.

80.200.6 Election to a Political Office

An employee who is elected to a political office, the duties of which will clearly conflict with their normal duty hours and assignment with the office, may request, and will be granted, an unpaid leave of absence, which will commence on the date they assume the

office and will terminate not later than thirty (30) days after their last day in the elected office. Reelection to the same office or election to a different office, which provides reasonable continuity of elected public service, will cause extension of the approved leave.

An employee granted a leave under this rule may be used as a substitute employee during the period of the leave. They will be placed on an appropriate employment list(s), and notified that they may be offered limited-term employment.

80.300.0 EMPLOYEE PERSONNEL FILES

(Represented employees should refer to their contract.)

80.300.1 Maintenance of File

Personnel files will be kept in the Human Resource Services Department.

80.300.2 Availability of Personnel File (Education Code Sections 45260, 45261, 44031)

A. Any member of the classified service may, by their request, inspect their personnel file, including electronic personnel files, maintained in the Human Resource Services Department. An employee will have access to all material in their personnel file, except for confidential ratings, reports or records which were:

1. Obtained prior to the person's employment;
2. Prepared by identifiable examination committee members;
3. Obtained in connection with a promotional exam.

The personnel file will not be altered, tampered with, or removed from the Human Resource Services Department by the employee.

B. All information in an employee's personnel file is confidential and will only be used for official County Office business. Such information will only be disclosed to County Office staff who have a business need to know such information or when authorized in writing by the employee. Information in an employee's personnel file will not be disclosed to anyone outside the County Office other than as required by law or when authorized in writing by the employee.

C. Inspection By Others

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

80.300.3 Personnel File Log Maintained

The Human Resource Services department will keep a log indicating the persons who have examined a personnel file as well as the date such examinations were made. Such log and the employee's personnel file will be available for inspection by the employee or

the employee's official representative (with written authorization from the employee). County Office employees who need access to personnel files in the normal course of their duties will not be required to log use of files. (Example: Human Resource Services staff members placing correspondence or completed evaluation forms in an employee's personnel file would not be required to log use of the files).

80.300.4 Derogatory Materials (Education Code Sections 44031, 45260, 45261)

- A. Placement of Derogatory Material in File
Information of a derogatory nature, will not be entered or filed unless and until the employee is given notice and an opportunity to review and comment thereon. Such review will take place during normal business hours and without loss of pay to the employee. The affected employee will be furnished with a copy of the proposed material ten (10) working days prior to it being placed in that employee's official personnel file.
- B. Response to Derogatory Materials
An employee will have the right to enter, and have attached to any such derogatory statement, their own comments thereon so long as the response is received within ten (10) working days of the employee's receipt of the material.

80.300.5 Removal of Derogatory Material

If the Commission sustains that the procedures were not followed, the derogatory material will be removed from the employee's personnel file. In no other instance will derogatory information be removed from the personnel file. At the point that any grievance is not sustained by the Commission or the time period for filing a grievance related to derogatory information has passed without the filing of a grievance, the derogatory material will be considered a Permanent Record, and will not be removed.

80.400.0 VIOLATIONS (Education Code Section 45317)

Any person who willfully or through culpable negligence violates any of the provisions of the Education Code (commencing at Section 45240) is guilty of a misdemeanor.

It is also unlawful for any person:

- A. Willfully, by themselves or in cooperation with another person, to defeat, deceive, or obstruct any person with respect to their right of examination, application, or employment under the Merit System, Education Code or the rules and regulations of the Personnel Commission;
- B. Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under the Merit System, Education Code or the rules and regulations of the Personnel Commission, or to aid in so doing, or make any false representation concerning the same or the person examined;
- C. Willfully to furnish to any person any special or secret information regarding contents of an examination for the purpose of either improving or injuring the

prospects or chances of any person examined or to be examined under the Merit System, Education Code or the rules and regulations of the Personnel Commission.

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