

**CHAPTER VI  
CERTIFICATION AND APPOINTMENT**

**6.1 ORDER OF PRECEDENCE IN CERTIFICATION TO FILL VACANCIES**

- A. ORDER OF LISTS. Except as provided in Rule 6.9, eligibles shall be certified from eligibility lists for the classes in which vacancies occur who are ready and willing to accept the appointment in the following order until each list is exhausted:
- a. Class reemployment list.
  - b. Class promotional list or from either open competitive or promotional lists when the examinations have been held simultaneously under dual certification procedures.
  - c. Class open list.
  - d. Eligibles who possess the qualifications required for the vacant position and standing highest on the most appropriate eligibility list in the following order:
    - a. Appropriate reemployment list.
    - b. Appropriate promotional list.
    - c. Appropriate open list.

Reference: California Education Code 45272

**B. AVAILABILITY OF ELIGIBLES**

1. An eligible on any list for any classification shall be considered "ready and willing" if he/she is:
- a. Willing and able, by the third working day from the date of notification to appear for an interview within the next two working days, or
  - b. Willing and able to report for work within 14 days from the date he/she is selected for and has obtained the required clearances to start the job, unless an alternative start date is designated by the district.
  - c. Willing and able to report for fingerprint processing within two (2) working days from the date of notification, unless an alternative time frame is requested by the eligible and set by the district.
  - d. Willing and able to promptly submit and complete all required employment processing and documents within ten working days from the date of

notification, unless an alternative time frame is requested by the eligible and set by the district.

2. Setting a start date:

- a. A selected eligible new to the district, who otherwise meets the requirements of this rule, and who has met all of the documentation/physical requirements/other requirements, shall be given a probationary assignment start date within his/her assigned calendar effective the first available date following election by the Board of Education, or as otherwise authorized or required by the district.
- b. A selected promotional eligible, who otherwise meets the requirements of this rule, shall be given a promotional assignment start date not later than the first working day that is two weeks from the date the offer is made and accepted, or two weeks from the date all documentation/ physical requirements/other requirements are completely met, whichever is the latter, or as otherwise authorized or required by the district.
- c. A selected transfer eligible, who otherwise meets the requirements of this rule, shall be given a transfer assignment start date not later than the first working day that is two weeks from the date the offer is made and accepted, or two weeks from the date all documentation/ physical requirements/other requirements are met, whichever is the latter, or as otherwise authorized or required by the district.
- d. A selected eligible from any other list, who otherwise meets the requirements of this rule, shall be given a start date not later than the first working day that is two weeks from the date the offer is made and accepted, or two weeks from the date all documentation/physical requirements/other requirements are met, whichever is the latter, or as otherwise authorized or required by the district.

C. ELIGIBLES

1. Number of eligible candidates to be certified.

The Personnel Commission staff shall certify the names of the first three ranks of eligibles on an eligibility list as well as all applicants for transfer or change of location who have been determined to be available.

2. Number of eligible candidates to be interviewed.

When there are three (3) or fewer than three (3) District promotional candidates within the first three (3) ranks on an eligibility list, each District promotional candidate will be interviewed. When there are more than three (3) District

promotional candidates within the first three (3) ranks on an eligibility list, the person responsible for filling the position will select at least three (3) District promotional candidates to be interviewed.

For Transfers, when there are fewer than three (3) transfer requests on the eligibility list, each employee requesting a transfer will be interviewed for the available position. When there are more than three (3) transfer requests on the eligibility list, the person responsible for filling the position will select at least three (3) employees requesting a transfer to be interviewed.

3. When a manager is interviewing concurrently to fill more than one vacant position in the same classification, a single interview of a candidate shall fulfill the requirements of interviewing for all such positions.
4. A manager shall not be required to interview a candidate again if that manager has interviewed that candidate for another vacant position in the same classification within the previous one hundred twenty (120) calendar days.

D. **DESIGNATION OF ADMINISTRATIVE, EXECUTIVE, PROFESSIONAL, OR TECHNICAL CLASSES.** Classes will be designated by the Commission as administrative, executive, professional, or technical based on one or more of the following criteria:

1. Classes requiring specialized skills customarily acquired by means of a combination of specialized formal training and experience.
2. Classes requiring the application of principles or theories customarily acquired by means of a specialized course of study in an institution of higher education.
3. Classes whose work is predominately intellectual in nature and the required knowledges are customarily acquired by means of a minimum of bachelor's degree.
4. Classes whose primary duties and responsibilities consist of the administration or management of major organizational units.

Recognizing that other state and federal laws require definitions of these categories within contexts other than certification and duty statement development, the Personnel Commission intends that the designation of individual classes as administrative, executive, professional or technical classes is for clarification and descriptive purposes only and does not necessarily establish any precedent in defining these kinds of classes.

## **6.2 WITHHOLDING NAMES FROM ELIGIBILITY LISTS AND FROM CERTIFICATION (REFUSAL OF APPOINTMENT)**

A. **WAIVER OF OFFER OF APPOINTMENT.** A person on a reemployment or eligibility list may decline two offers of permanent appointments without affecting his status on the list. A third refusal results in removing the eligible's name on the eligibility list.

Failure to respond within three days to a communication involving a possible permanent appointment may result in withholding certification of an eligible. Failure to appear for a scheduled interview shall be considered an individual waiver.

An offer of limited term employment will not affect adversely the right of any person on a reemployment or eligibility list to certification to a permanent position.

Any position which may continue for more than six months is deemed to be a permanent position under this rule.

- B. **VOLUNTARY WITHDRAWAL OF NAME FROM ACTIVE LIST.** An eligible may at any time have his name temporarily withdrawn from the eligibility list and placed upon an inactive list upon giving in writing reasons satisfactory to the Commission, and his name may be restored to the eligibility list at the discretion of the Commission upon written application of the eligible during the period of his eligibility.

### **6.3 RETURN OF EMPLOYEE TO ANOTHER CLASS**

Upon recommendation of a division or department level administrator, and with the approval of the Commission, a regular employee who formerly had permanent status in a classification that is higher than that to which currently assigned may be reinstated to an existing vacant position of his/her former higher class by the governing board within 39 months after his/her last day of paid service in that class, without competitive examination, unless the previous status in the classification was lost through separation from service or demotion as a result of misconduct or inefficiency. No such appointment shall be made if a reemployment list exists for the class in which the vacancy exists.

Voluntary request for reduction in class in line of promotion, especially if the employee has not had prior regular service in a specific lower classification, must be supported by a written statement giving the reasons for the request.

### **6.4 DUAL CERTIFICATION PROCEDURE**

When dual certification has been authorized by the commission as provided in Education Code Section 45284, eligibles on the open competitive list whose final scores in the examination, without preferential credits, exceeds the comparable total final score of the highest available eligible on the promotional list, shall be certified for appointment before the promotional eligibility list is exhausted. Certification from the eligibility list shall be from the first three ranks who are willing and ready to accept the position.

Reference: California Education Code 45284

### **6.5 SPECIAL CERTIFICATION NEEDS**

The appointing authority shall notify the Executive Officer of any special certification needs such as when another language or driver's license is needed. Upon approval, staff shall certify the three ranks of eligibles with the highest standing on the eligibility list and all candidates for transfer or change of location, who possess such qualifications and who have been determined to be available in accordance with Rule 6.1.B, and where bilingual skill is the requirement, have satisfactorily demonstrated the required language proficiency.

Reference: California Education Code 45277 and 45277.5

## **6.6 NOTIFICATION OF CHANGE OF ADDRESS**

Every person who has been placed upon any eligibility list, or who has been placed upon any reemployment list, shall promptly and in writing file with the Commission his correct mailing address and place of residence, and this shall be the place to which the Commission or staff shall direct all notices.

Failure or neglect on the part of any such person to file such information with regard to this address or with regard to any change thereof, may, at the discretion of the Commission, operate as a waiver of his order of certification and/or appointment from any such list, or lists.

## **6.7 EMPLOYMENT BY ACTION OF BOARD OF EDUCATION**

- A. APPOINTMENT BY BOARD. Employment of personnel shall be from eligibility lists by action of the Board of Education.
- B. REPORT OF APPOINTMENT FROM CERTIFICATION. Whenever an eligible is elected, it shall be the duty of the Board of Education, through its proper agent, to make immediate report in writing to the Executive Officer of said appointment or election.

## **6.8 EMPLOYMENT OF RETIRED CLASSIFIED EMPLOYEE**

- A. LIMITATION ON EMPLOYMENT. No person may be employed in school employment while he or she is receiving a retirement allowance under any retirement system by reason of prior school employment, except as permitted by Education Code 45134 or appropriate sections of the Government Code. Before employment actions are taken, both the prospective employee and the employer's staff representative should review carefully the retirement status of the prospective employee and applicable Government Code sections which describe lawful post PERS retirement in order to avoid the monetary penalties prescribed for unlawful post PERS retirement employment which may be applicable to each of the parties.
- B. CLASSIFICATION. Employment under the provisions of this section may be in any classification for which the retired employee meets the qualifications established for the classification and shall be in accordance with the provisions of Education Code Section 45272.

- C. **COMPENSATION.** A retired classified employee of the district employed under this section in a classification in which he worked as a district employee or in a lower related classification shall not exceed the maximum for the classification to which appointment is made.

A retired member of the Public Employees Retirement System who was not a district employee at the time of retirement shall be paid the same as a newly hired eligible employee.

No additional rights or benefits shall be extended with respect to such employment other than compensation as provided above.

- D. **NOTIFICATION TO EXECUTIVE OFFICER.** When such employment of retired classified employees is required, the appointing authority shall notify the Executive Officer in writing naming the retired employee, date of appointment, nature of duties to be performed, and a statement indicating the reasons(s) for said appointment.
- E. **PROCESSING FOR EMPLOYMENT.** Persons employed for temporary work under this section shall be processed in the same manner as other limited-term employees.

## **6.9 PROVISIONAL APPOINTMENTS**

- A. **EMPLOYMENT OF PROVISIONAL EMPLOYEES.** Persons who receive provisional appointments must meet the qualification requirements established for the classification in which employed and shall be processed in the same manner as other regular employees.
- B. **TERMINATING PROVISIONAL APPOINTMENTS.** The service of provisional appointees shall be terminated within fifteen calendar days after the date on which an eligibility list has been established for such position, provided this fifteen-day period does not extend beyond their 90-working-day provisional assignment.

## **6.10 EMERGENCY APPOINTMENTS**

- A. **FIFTEEN DAY LIMIT.** In the event it should become necessary in time of emergency to fill positions in the classified service to prevent the stoppage of public business, the Board of Education, through its authorized Department Heads may make emergency appointments without reference to eligibility lists for a period not to exceed fifteen working days.

Reference: California Education Code 45290

- B. **NOTIFICATION OF EXECUTIVE OFFICER.** When such emergency appointments are made, the Board of Education or designee shall notify the Executive Officer in writing naming the appointee or appointees, date of appointment, nature of duties performed and giving a statement justifying the emergency nature of such appointments. Time served under such emergency appointments shall be considered as part of the period permitted

under the Education Code for provisional appointments. No salary claim beyond the fifteen day emergency shall be paid for services performed under the emergency appointment until such claim shall have been approved by the Commission.

## **6.11 SUMMER EMPLOYMENT AND INTERSESSION ASSIGNMENT**

- A. **APPOINTMENTS.** Vacancies due to summer vacation, intersession, or recess and other short-term summer or intersession positions shall be filled, so far as practicable by those regularly employed, but on a less than 12-month basis, provided:
1. Applicants must meet the qualifications requirements established for the class to which appointment is to be made and be available for assignment during the summer recess and/or intersession recess(es) as specified on the application.
  2. Appointments shall be made from appropriate special lists of those eligible employees who make specific application each year by the third Friday in March, unless this date falls during spring recess, in which case the deadline will be the second Friday in March.
  3. In the case of appointment to a class in which the employee is regularly assigned, the order of appointment shall be on the basis of seniority in that class. In the case of appointments in other classes, the order of appointment shall be on the basis of seniority in the district. Permanent employees trained in a specific type of task within a classification in past years may be reemployed for identical service, regardless of their places on summer employment eligibility lists.
- B. **YEAR DEFINED.** Full year, for the purpose of this rule, shall be defined as the lapse of a calendar year during which the employee has continuous status as a permanent employee, regardless of the number of days actually worked.
- C. **SUMMER EMPLOYMENT ELIGIBILITY LISTS.** No person whose last fully resolved service rating is less than satisfactory shall be placed on the list for summer/intersession employment. However, if summer assignments continue to remain vacant after all other applicants have been assigned summer employment, employees who have completed their Improvement Plan and Strategy for Assistance shall be eligible.
- D. **PHYSICAL EXAMINATION.** Applicants for positions involving manual labor may be required to submit to qualifying tests based on the requirements of the positions.
- E. **MINIMUM ASSIGNMENTS.** Appointments to one or more positions in which the combined service equals a minimum of ten working days satisfies the claim of any eligible person whose name has been reached for appointment.
- F. **COMPENSATION.** A regular employee with less than a 12-month assignment who is employed pursuant to this section shall be compensated as follows:

1. If the summer employment is in a class at the same or at a lower salary level, the employee shall receive his current regular rate, but in no event shall he receive more than the maximum step of the range for the class in which the summer assignment is made. If the summer assignment is to a lower class at a range which does not include his regular rate, the employee shall be placed at the rate in the range for the lower class which is next lower than his regular rate.
2. If the summer assignment is in a higher class, the employee shall receive the rate in the salary range for the higher class that is next above the rate received in the employee's regular class.
3. During such summer employment the employee shall receive other rights and benefits as provided by Education Code 45102.

## **6.12 HEALTH EXAMINATIONS**

- A. **WHEN REQUIRED.** Except when physical qualifications are rated competitively, no health examination shall be required of any candidate prior to the establishment of an eligibility list. In the case of limited term employment in the absence of an eligibility list, a health examination may be required.
- B. **ORIGINAL APPOINTMENT SUBJECT TO EXAMINATION.** The right of appointment from an eligibility list is subject to passing the qualifying health examination, if required, in case of original appointments. Health examinations may be given by a physician designated by the Board of Education.
- C. **RIGHT OF BOARD OF EDUCATION TO ORDER HEALTH EXAMINATION.** Nothing in these rules shall be construed as preventing the Board of Education from ordering a health examination of any employee to determine his physical or mental fitness to continue occupancy of his position.

Reference: California Education Code 49406

## **6.13 OATH OF ALLEGIANCE**

All new employees of the District shall, before the first day of service, sign the prescribed oath or affirmation of allegiance to the Constitution of the United States and the Constitution of the State of California.

Reference: California Government Code 3102