

## CHAPTER 7

### APPOINTMENT TO CLASSIFIED POSITIONS

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#### 7.1 PROCEDURES FOR APPOINTMENT

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

REFERENCE: Education Code Sections 88160 and 88091

7.1.B APPOINTMENT: Upon selection, each prospective employee shall receive the official offer of employment by the Human Resources Office pending approval action by the Board of Trustees. The offer shall include the time and date to report for duty and the salary at time of hire. Appointment to the position shall be subject to review by the Personnel Commission, approving that the employee was hired pursuant to these Rules and the Education Code and the Board of Trustees action to employ as the employer, except for Commission positions.

1. The prospective employee shall be allowed two (2) weeks to report for duty after an offer of employment to a permanent position has been made or one (1) month in the case of management classes. Should the prospective employee be unable or unwilling to report for duty within the required period, the appointing authority may request that additional eligibles be certified.

REFERENCE: Education Code Sections 88080 and 88081

7.1.C DISCRIMINATION PROHIBITED: No applicant or eligible certified for appointment shall be discriminated against because of his/her political or religious opinion or affiliations, race, color, national origin / ancestry, sex, religion, age (over 40), mental or physical disability, veterans status, medical condition, marital status, sexual orientation, pregnancy, or other legal protected classes, employee organization membership or nonmembership and legal activities related thereto. No questions shall be asked relating to these matters during the selection and interview stages of employment.

REFERENCE: Education Code Sections 88080, 88081 and 88112

7.1.D NEPOTISM: The Commission's Rule governing the employment of immediate family in classified positions is intended to establish a minimum exclusion regarding supervisor/subordinate relationships.

1. The District shall endeavor to avoid the assignment of close relatives or cohabitants to work in situations where conflicts of interest could arise; close relatives should not be assigned to the same department.
2. For purpose of this Rule, immediate family shall include spouse, son, son-in-all, daughter, daughter-in-law, mother, mother-in-all, father, father-in-all, brother, brother-in-law, sister, sister-in-law, grandmother, grandmother-in-all, grandfather, grandfather-in-all, grandchild of the employee, or any person living in the immediate household of the supervisor/administrator.

- REFERENCE:
1. Education Code Sections 88080 and 88081
  2. Government Code Section 1091.5

## 7.2 PROVISIONAL APPOINTMENT

7.2.A REASONS FOR PROVISIONAL APPOINTMENT: The appointing authority may make a provisional appointment when the Director of Human Resources 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, and the appointing authority requests three (3) ranks of eligibles to interview.

- REFERENCE: Education Code Sections 88080, 88081, 88106, 88107 and 88108

7.2.B LENGTH OF PROVISIONAL APPOINTMENT: A provisional appointment may accumulate to a total of ninety (90) working days. A 90 calendar day interval shall then elapse in which the person will be ineligible to serve in any full-time provisional capacity. In no case may a person be employed in full-time provisional assignments for a total of more than one hundred twenty-six (126) working days in any fiscal year, except that when no one is available on an appropriate eligibility list for a part-time position (less than 20 hours per week), successive 90 working day provisional appointments may be made to the part-time position for a total of more than 126 working days in any one fiscal year.

*(Amended 7.2.B – 6/7/05)*

- REFERENCE: Education Code Sections 88076, 88080, 88081, 88106, 88107 and 88108

7.2.C

EXTENSION OF PROVISIONAL APPOINTMENT: The Commission may extend the ninety (90) working day provisional appointment for a period not to exceed thirty-six (36) additional working days provided all of the following requirements are met:

1. An examination for the class was completed during the initial ninety (90) working days of an employee's provisional assignment.
2. Satisfactory evidence is presented indicating:
  - (a) Adequate recruitment effort has been and is being made.
  - (b) Extension of this provisional assignment is necessary to carry on vital functions of the District and;
  - (c) The position cannot be satisfactorily filled by use of other employment lists or procedures.

*(Amended 7.2.C – 6/7/05)*

REFERENCE: Education Code Sections 88076, 88080, 88081, 88106, 88107 and 88108

7.2.D

SUCCESSIVE 90 DAY APPOINTMENTS: In the absence of an appropriate eligibility list, successive ninety (90) working day appointments may be made to a position for a period exceeding the one hundred twenty-six (126) working day limitation when:

1. Continuous examination procedures have been authorized by the Commission or;
2. The position is less than twenty (20) hours per week.
3. Such appointment shall continue only until certification from an appropriate list can be made.
4. Such provisional appointments may be made and persons employed in temporary capacities for a total of more than six (6) months in any one year.
5. Such appointments may continue for the length of time for which they were made, but may not be extended if a certification can be made from an appropriate eligibility list.
6. The provisions of 7.2.D shall supersede any other provisions of other related rules which are in conflict with this rule, but only to the extent there is a conflict.

*(Amended 7.2.D – 6/7/05)*

REFERENCE: Education Code Sections 88076, 88080, 88081, 88106, 88107 and 88108

7.2.E QUALIFICATIONS OF PROVISIONAL APPOINTEES: Provisional appointees must meet the minimum qualifications for the classification stated in the class specification. The appropriateness of qualifications shall be made by the Director of Human Resources prior to appointment.

REFERENCE: Education Code Sections 88080, 88081, 88106, 88107 and 88108

7.2.F STATUS OF PROVISIONAL EMPLOYEES: To be eligible for appointment to a regular position, the provisional appointee must qualify by competitive examination for a place on the eligibility list.

1. Time served in provisional status shall not be counted as credit toward permanency or completion of the probationary period for the class in which the provisional appointment is made or provide the person with any other vested rights in the position or class.

REFERENCE: Education Code Sections 88080, 88081, 88106, 88107 and 88108

7.2.G TERMINATING PROVISIONAL APPOINTMENT: The services of a provisional appointee shall be terminated within twenty (20) working days after the date on which certification for interview from an eligibility list has been made. A provisional appointment may be terminated at any time, at the discretion of the appointing authority.

*(Amended 7.2.G – 6/7/05)*

REFERENCE: Education Code Sections 88080, 88081, 88106, 88107 and 88108

### 7.3 SPECIAL APPOINTMENTS

7.3.A PROCEDURE FOR EMERGENCY APPOINTMENT: If it should become necessary in time of declared emergency to fill positions in the Classified Service to prevent the stoppage of public business, the Board, through its authorized management representatives, may request the Director of Human Resources to make emergency appointments without reference to eligibility lists, for a period not to exceed fifteen (15) working days. The Director of Human Resources shall comply with the request if appropriate.

1. When such emergency appointments are to be made by the Director of Human Resources, it shall be the duty of the Board of Trustees to provide the Director with written information outlining the date of appointment and nature of duties performed, giving a statement justifying the emergency nature of such appointments, and any other additional information requested by the Director so that an appropriate decision may be made under this Rule.

REFERENCE: Education Code Sections 88080, 88081 and 88109

- 7.3.B CONDITIONAL APPOINTMENT: Temporary appointments in an existing class, not to exceed thirty (30) days, may be made in lieu of an appointment to fill a new position pending the classification of the new position by the Commission. Salary shall be determined by the Director of Human Resources subject to ratification by the Personnel Commission.

REFERENCE: Education Code Sections 88080 and 88081

- 7.3.C SUMMER AND OTHER RECESS PERIOD ASSIGNMENTS: When the Board establishes temporary positions during the recess period between the regular August to May school year, or during other recess periods during the school year (including summer school positions), those positions shall be offered to regular employees of the District not regularly employed during these periods. Appointment to these positions shall be on the basis of seniority among employees requesting summer/recess period employment in the class to which the position has been allocated by the Personnel Commission. If there are insufficient employees in the class, appointment shall be made on the basis of seniority of employees who are qualified to perform the duties of the position, as determined by the Director of Human Resources.

REFERENCE: Education Code Sections 88002, 88080 and 88081

#### 7.4 LIMITED-TERM AND SUBSTITUTE APPOINTMENTS

- 7.4.A POSITIONS DEFINED: Positions established to perform duties which are not expected to exceed six (6) months shall be designated limited-term positions.

REFERENCE: Education Code Sections 88080, 88081 and 88105 - 88109

- 7.4.B PROCEDURE FOR ESTABLISHMENT OF LIMITED - TERM/SUBSTITUTE POSITIONS: When a limited-term position is established, the appointing authority shall notify the Personnel Commission Office in writing of the hours, starting date and length of the assignment. Establishment of limited-term positions shall be subject to approval of the Director of Human Resources, and the Board of Trustees.

1. A limited-term appointment may not exceed six (6) months. A substitute assignment may not exceed the duration of the absence of a regular employee. The appointment may be in the same class as that of the absent employee or the duties may be reduced in level and the appointment may be made from a lower class.
2. Limited-term positions shall be classified by the Director of Human Resources and shall be subject to ratification by the Personnel Commission.

REFERENCE: Education Code Sections 88080, 88081 and 88105 - 88109

7.4.C ELIGIBILITY FOR APPOINTMENT: Limited-term and substitute appointments shall be made from eligibility lists and employment lists.

1. If an eligible is appointed from an eligibility list to a substitute or limited-term position, the individual shall continue to be eligible for substitute or limited term appointments in the same or related lower class after the eligibility list has expired. The same privilege of continued eligibility shall apply to a former employee who has resigned in good standing and has accepted a limited-term appointment within thirty-nine (39) months after resignation.
2. When no eligible is available to accept a substitute or limited- term position, the Director of Human Resources is authorized to certify applicants or candidates for appointment.

REFERENCE: Education Code Sections 88080, 88081 and 88105 - 88109

7.4.D COMPENSATION FOR LIMITED-TERM/SUBSTITUTE ASSIGNMENTS: When a regular employee is given a limited-term appointment in a higher class in lieu of all or part of his/her regular appointment, the rate of pay in the second class shall be the rate of that class which is next above his/her regular rate, if any, and which will provide at least a 4.9% salary increase, but not more than the highest rate applicable to that class.

1. Former employees who accept a limited-term or substitute assignment in their previous class shall be placed on the step of the salary schedule closest to their last regular rate of pay. Former employees who accept a limited-term or substitute assignment to positions in other classifications shall be placed on the first step of the salary range for that class.
2. All other limited-term employees shall be paid at the hiring rate for regular appointments in the class.

REFERENCE: Education Code Sections 88080, 88081, 88105 - 88109 and 88128

7.4.E RIGHTS AND BENEFITS DURING LIMITED-TERM ASSIGNMENTS: Regular employees who are serving in limited-term assignments while retaining regular status in another class shall continue to earn and be granted all rights and benefits of a regular employee.

1. No credit toward completion of probation shall accrue from service in a limited-term or substitute appointment.

REFERENCE: Education Code Sections 88080, 88081, 88105 - 88109 and 88128

7.4.F TERMINATION OF LIMITED-TERM APPOINTMENT: A limited-term or substitute appointment may be terminated at the end of an assigned shift at the discretion of the appointing authority. The appointing authority shall immediately notify the Personnel Commission Office when a limited-term assignment is being terminated.

1. A limited-term or substitute employee may be dismissed for cause. When the appointing authority dismisses the employee, the Director of Human Resources shall be notified in writing of the cause for the dismissal. The Director of Human Resources may investigate the matter and may remove that person's name from all employment lists.

REFERENCE: Education Code Sections 88080 and 88081

## 7.5 EMPLOYMENT OF PERS RETIREES AND VOLUNTEERS

7.5.A GENERAL POLICY ON RETIREES: Any person receiving a retirement allowance from the Public Employees' Retirement System may be employed up to nine hundred and sixty (960) hours per calendar year. The retired person must be informed that employment is restricted to 960 hours in any school year with the District.

- REFERENCE:
1. Education Code Section 88034
  2. Government Code Section 21150 et seq

7.5.B COMPENSATION OF RETIREES: A retired employee under authority of this Rule shall be entitled only to the appropriate salary earned including overtime compensation.

1. Retired employees appointed to positions shall be placed on the step of the salary schedule closest to but not less than their last rate of pay (Step A - E) (excludes differential/longevity pay).

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

REFERENCE: Education Code Sections 88080 and 88081

7.5.C ASSIGNMENT: A retired employee under this Rule is not subject to reinstatement to PERS nor does the compensation period provide for retirement allowance adjustment.

1. The appointing authority shall certify to the Director of Human Resources that a retired employee employed under this Rule meets the provisions of this Rule and the combined school year employment will not exceed nine hundred and sixty (960) hours.

REFERENCE: Education Code Sections 88080 and 88081

7.5.D EMPLOYMENT OF VOLUNTEER ASSISTANTS: Volunteer assistants may be assigned non-instructional work which serves to assist faculty. They shall be under the immediate supervision of faculty. No classified positions may be abolished to use volunteer assistants in lieu thereof.

REFERENCE: Education Code Sections 72401 and 88249