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CHAPTER 7

ELIGIBILITY LISTS AND APPOINTMENTS

7.1 ELIGIBILITY LISTS

7.1.1 ESTABLISHMENT AND LIFE OF ELIGIBILITY LISTS

- A. The names of candidates are arranged by rank order of their final score from the examination process. The list of names becomes an eligibility list for a classification.
- B. The Personnel Director is authorized to establish and certify eligibility lists from which the hiring authority recommends persons for employment, unless provided otherwise in these rules.
- C. The eligibility list shall be certified by the Personnel Director to be correct prior to any regular appointments being made. Following certification by the Personnel Director the list shall be presented to the Personnel Commission at either a regular or special meeting for ratification.
- D. Prior to certification of the list by the Personnel Director all of the following conditions must be met:
 - 1. The examination requirements have been completed in accordance with rules and regulations of the Commission.
 - 2. The list has been compiled in accordance with the provisions of Commission Rules affecting placement on a list.
- E. Appointments may be made from available eligibles pending final decision on protests and/or appeals; and appointments shall not be changed even though the outcome is in the appellant's favor, unless the Commission orders otherwise.
- F. Following certification, an eligibility list shall be in effect for one year, unless exhausted or terminated as provided elsewhere in Commission rules relative to eligibility lists. Open competitive eligibility lists may be established for a period of six months upon the approval of the Personnel Commission so long as the six months duration of such a list is noted in the recruitment bulletin announcing the examination.
- G. An eligibility list may be extended for an additional period of up to one year as approved by the Commission.
- H. An eligibility list for continuous examinations shall be established in accord with the following procedures:

1. Candidates passing all components of a continuous examination shall be added to a master eligibility list consisting of all eligible candidates recruited as part of a continuous examination.
2. A master eligibility list shall be used as a substitute assignment list for candidates seeking substitute work in a classification, and a permanent employment list for candidates seeking permanent employment in a classification.
3. Whenever permanent openings for the involved classification become available, an eligibility list to fill the available vacancies will be generated from the master eligibility list for all candidates still active on the master eligibility list. This list will be used to hire candidates in rank order in accord with these Rules.
4. A designation for work as a substitute shall be accepted anytime during a candidate's eligibility period. For the substitute work, eligible candidates need not be rank ordered.
5. Candidates shall remain on the master eligibility list for one year unless otherwise removed from the list in accord with these Rules.
6. At the end of a one year period, individual candidates shall be purged unless they return a written request sent to them at the address currently on file in the personnel office requesting to remain on the list for an additional year. Candidates who fail to return the request for an extension on the list by the deadline indicated in their individual notice shall be removed from the list without prejudice. Candidates who return the request for an additional year on the master eligibility list shall remain on the list for one additional year unless otherwise removed from the list in accord with these Rules.
7. At the end of the second year of being on an eligibility list, candidates will be notified of their expiration off the master lists and offered the opportunity to retest if a continuous recruitment is still in effect.
8. If a continuous recruitment is no longer necessary for a particular classification, the Personnel Director shall certify a final rank order list with a one year expiration date and notify all candidates remaining on the list of the termination of the continuous recruitment status and of their rank order on the final list.
9. Candidates on a master eligibility list for continuous testing must return a written verification sent to them at the address on file with the Personnel Commission office indicating a desire to remain on the permanent list. Failure to return the written

verification on the time indicated in the notice shall automatically remove the candidate from the list.

10. The certification of the final list shall include the number of candidates who failed to provide written verification of their desire to remain on the list or who indicated a desire to be removed from the final list.

[Revision: First reading 3/7/06; second reading and adoption 4/4/06]
(Reference: Ed. Code 45260, 45261, 45272 and 45300)

7.1.2 CONTENTS OF ELIGIBILITY LISTS

An eligibility list shall contain:

- A. Information on the type of recruitment conducted to establish the list, (i.e., promotional; open competitive; promotional and open with the promotional list taking precedence; continuous; or dual certification).
- B. The weighted scores of each part of the examination.
- C. The dates of each part of the examination.
- D. The signature of the Personnel Director attesting that the eligibility list was produced.
- E. The date indicating when the eligibility of named candidates terminates.
- F. The date the list was ratified or approved by the Commission.

[Revision: First reading 3/7/06; second reading and adoption 4/4/06]
(Reference: Ed. Code 45260, 45261, 45272 and 45300)

7.1.3 APPOINTMENTS SHALL BE MADE FROM ELIGIBILITY LISTS

All regular appointments in the classified service shall be made from one of the following types of eligibility lists or from another eligibility or reemployment list

- A. Promotional List: List of eligibles resulting from an examination limited to qualified permanent employees only.
- B. Open Competitive List: List of eligibles resulting from an examination open to all qualified applicants.
- C. Promotional and Open Competitive List: Separate promotional and open competitive lists of eligibles resulting from a single examination, with the promotional list taking precedence.
- D. Transfer List: Consists of a roster of the names of all employees who request in writing lateral transfer or voluntary demotion to a class in the same job family. The Personnel Director shall be

responsible for determining job family relationships. Transfers shall be made as stipulated elsewhere in these rules and/or by negotiated agreement.

- E. Reinstatement List: Former employees that left in good standing who have requested reinstatement to a vacant position in a class in which they held probationary or permanent status. Those who held probationary status that are reinstated and appointed under this provision must begin a new probationary period. For the purpose of reinstatement, a consolidated class title shall be considered the former class of a person who resigned from a class that has been consolidated.
- F. Dual Certification List: The Personnel Director may, prior to the examination, order dual certification. This examination procedure shall result in one integrated promotional and open eligibility list. Eligible promotional candidates shall have their scores adjusted for preferential credit points.

7.1.4 DURATION OF ELIGIBILITY LISTS

- A. All eligibility lists shall be established for a period of one year from the date the list is promulgated unless terminated earlier by the Commission, or until the list contains fewer than three ranks of available eligibles and the appointing authority is unwilling to make an appointment from that list. The appointing authority shall then request that additional eligibles be certified in order that there be three ranks available.
- B. The Commission may approve the establishment of an eligibility list for a period of six months. Notification will be made when recruitment is announced.
- C. The Personnel Commission may, upon the recommendation of the Personnel Director, abolish the list before one year if there are insufficient eligibles ready, willing, and able to accept appointment.
- D. The Personnel Director may extend a list for an additional period of time when necessary to facilitate the orderly progress of business. A report of the extension shall be made to the Personnel Commission at the next regularly scheduled meeting. The total life of any eligibility list shall not exceed two years.

(Reference: Ed. Code 45260, 45261, 45272, and 45300)

7.1.5 CONSOLIDATION OF ELIGIBILITY LISTS

- A. If a new examination for a classification is given during the life of an existing list, before extension, the examination shall be sufficiently similar to the previous examination to ensure the comparability of the scores of eligibles. The new list shall then be merged with the existing list with eligibles ranked in the order of examination score,

plus additional points where applicable. Promotional lists shall be merged only with promotional lists, except that, where “dual certification” applies, open and promotional lists shall be merged for certification.

- B. When lists are consolidated under this rule, the earlier list shall be terminated at the conclusion of its originally approved length of duration, and those eligible names shall be removed from the consolidated list.

(Reference: Ed. Code 452670, 45261, 45272, 45277, 45283, 45284, 45291 and 45300)

7.1.6 ELIGIBILITY AFTER APPOINTMENT

An eligible who accepts part-time employment shall continue to be eligible for full-time employment, and an eligible who accepts limited-term or other temporary employment shall continue to be eligible for regular appointment.

(Reference: Ed. Code 45260, 45261 and 45272)

7.1.7 RE-EMPLOYMENT LISTS

- A. There shall be established for each class a re-employment list which shall take precedence over all other employment lists. This list shall contain, for 39 months, and according to seniority, the names of all classified employees who:
 - 1. Have been laid off or demoted from any position because of lack of funds.
 - 2. Are on a military leave of absence.
 - 3. Have exhausted all leaves, paid or unpaid and who are medically unable to resume the duties of their positions.
- B. Employees whose names are on a re-employment list because of a layoff will be restored to their positions before any others on a reemployment list according to their seniority unless otherwise provided to in the Rules.
- C. The employee who had been employed the longest time in the class, plus higher classes, shall be reemployed first..

(Reference: Ed Code 45192, 45195, 45260, 45261, 45298, and 45308)

7.1.8 MILITARY ELIGIBILITY LISTS

- A. Employees who require leaves of absence for military duty and those who are ordered, pursuant to the laws of the United States, to serve in any civilian war effort or war industry, shall have their names placed over all other names on the reemployment list in the class which they leave.

- B. Employees returning from military leave shall be eligible for reemployment for a period not to exceed six months after discharge.

7.1.9 REMOVAL OF NAMES FROM ELIGIBILITY LIST

The name of an eligible may be removed from an eligibility list by action of the Commission for any of the following reasons:

- A. A written request by the eligible for removal.
- B. Failure to respond to a written inquiry regarding availability for employment.
- C. Waiver of three offers of regular appointment.
- D. Any of the causes listed in Personnel Commission Rule 4.1.3.

(Reference: Ed. Code 45260, 45261, 45272 and 45300)

7.1.10 CERTIFICATION FROM A RE-EMPLOYMENT LIST

- A. Persons shall be certified from re-employment lists in the order of seniority in the classification, provided that the former employee is willing and able to report for duty on the effective date of the appointment or within 14 calendar days after the offer of re-employment has been made, whichever is later.
- B. In cases of limited term appointments, the former employee must be willing and able to report for duty on the effective date of the appointment, or he will be considered unavailable for that appointment.
- C. A name may be removed from a re-employment list only for the following causes:
 - 1. Conviction of crime or crimes which would be sufficient to support dismissal of a permanent employee.
 - 2. Conduct which would cause dismissal under the provisions of Section 45303 of the Education Code.
 - 3. Failure to report for review of loyalty or criminal record as directed.
 - 4. Making a false statement or omitting a statement as to any material fact on an application form or health history form.
 - 5. Dismissal for causes from employment subsequent to layoff. Written notice of removal and the reason therefore shall be provided to the employee. He shall be afforded and notified of appeal rights identical to those provided in Rule 6.8.3.
- D. A person whose name appears on a re-employment list may be considered unable to report for duty and may be passed over in the order of certification if he cannot meet the legal requirements to

perform the prescribed duties of the classification of re-employment.

(Reference: Ed. Code 45260, 45261, 45298, 45303, and 45308)

7.1.11 DUTIES OF ELIGIBLES

- A. It shall be the duty of every eligible to
 - 1. Respond promptly after receiving notice of certification. The eligible will be required to respond within five working days from the postmark date on the notification. Failure to respond within the above stated time may result in removal from the eligibility list. Three waivers may result in the removal of an eligible's name from the eligibility list.
 - 2. Keep their contact information (primary phone number and mailing address) current with the Commission. Failure to keep contact information current may result in removal from the eligibility list or may result in failure to be considered for an appointment when the appointing authority has asked for the names of eligibles.
- B. An eligible is allowed to waive two offers to interview with an appointing authority or to accept an employment offer. The Personnel Director may remove the eligible's name from the list after the third waiver.
- C. Eligibles are required to keep the Personnel Commission office informed as to current home address and telephone numbers where they can be reached to schedule employment interviews. Failure to keep the Personnel Commission office informed could result in the eligible being bypassed as unreachable on the eligibility list. In that event, the Personnel Director shall send a letter or telegram inquiring as to continued availability and interest. Failure to respond pursuant to these rules may result in the removal of an eligible's name from the eligibility list.
- D. An eligible who has been selected for a permanent position and is unable or unwilling to report by the end of two full weeks, or one full month in the case of management classes, may be considered to have refused appointment and the appointing authority may request certification of additional eligibles in accordance with Rule 4230.10.
- E. The date of the offer of appointment shall be the date on which the eligible is notified by the Personnel Director of selection.
 - 1. Notification may be made by telephone, fax, telegram, registered, certified, or electronic mail.
 - 2. The appointing authority, at its discretion, may establish a start time longer than two weeks.

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

Reference: Education Code Section 45272

7.2 EMPLOYMENT AND APPOINTMENT FROM LISTS

7.2.1 APPOINTING AUTHORITY

- A. The appointing authority for employees to the district shall be the Superintendent or his designee.
- B. The appointing authority of Commission employees shall be the Personnel Commission.

7.2.2 ORDER OF PRECEDENCE

- A. Names shall be certified for appointment from employment lists in the following sequence:
 1. Persons on reemployment lists for the classification who have a right to a position and whose reemployment takes precedence over all other appointments.
 2. Employees requesting transfer, employees requesting reinstatement and the top three ranks of eligibles from the appropriate list in the following order or precedence:
 - a. Promotional List
 - b. Dual eligibility list
 - c. Open examination list
- B. If the appointing authority chooses not to recommend an eligible, the Personnel Director shall not certify additional names unless a candidate waives further consideration for the position, or until the list is expired.
- C. A position not filled in accordance with the above and occupied by an employee may be vacated by the Personnel Director and filled from the eligibility list unless ordered otherwise by the Personnel Commission.
- D. Eligibles shall be placed on the eligibility list in rank order according to their score on the examination(s). The final scores of candidates shall be rounded to the nearest whole percent. All eligibles with the same percentage score shall be placed in the same rank. Certification from the list(s) shall be from the eligibles certified who are ready, willing, and able to accept the position(s) to be filled.
- E. For classes approved for continuous testing, certification shall be made at the time the Personnel Director can first reasonably certify

eligibles to the appointing authority and to the Commission for ratification.

- F. The appointing authority shall notify the Personnel Director of the selection of an eligible from the list. The Personnel Director shall authorize the offer of employment and subsequent actions for employment if the eligible accepts.
- G. The Personnel Director may, if determined feasible and desirable, certify a list of less than three ranks to the appointing authority.

7.2.3 MULTIPLE POSITIONS VACANT - SAME CLASS

In the event of multiple authorized positions, the Personnel Director may certify a number of ranks which provide a number of eligibles that exceeds the number of openings by two, plus any reinstatement or transfer eligibles.

7.2.4 CERTIFICATION OF ADDITIONAL ELIGIBLES

- A. If an eligible who has been certified declines an interview or fails to respond for an interview, the appointing authority shall notify the Personnel Director.
- B. When a request for additional eligibles is made, the Personnel Director may:
 - 1. Investigate the matter to determine that any interview refusal is, in fact, voluntary.
 - 2. Withhold further certification should the investigation determine that refusal was not voluntary.
 - 3. Remove the names of those eligibles from the list who failed to report for interviews or who refused appointment to a position.
 - 4. Certify additional eligibles as required or authorized by these rules.

7.2.5 DUAL CERTIFICATION

When an open competitive examination and a promotional examination for a particular class are held at the same time, the Commission may, prior to the examination, authorize certification for employment of candidates from the open competitive eligibility list before the promotional eligibility list has been exhausted if the candidate on the open list has a higher score before adjustment for preferential credits than the score of the highest available candidate on the promotional list after seniority credits have been added.

(Reference: Ed. Code 45260, 45261 and 45284)

7.2.6 PROCEDURE WHEN FEWER THAN THREE NAMES REMAIN

- A. When fewer than three ranks of eligibles are available on the promotional list, sufficient names shall be certified from the open list to allow a choice among eligibles (one in each rank).
- B. When fewer than three ranks of eligibles are available for certification, the available eligibles shall be certified; however, the appointing authority may choose not to appoint any of them and may request a new examination.

(Reference: Ed. Code 45260, 45261, 45272, and 45284)

7.2.7 CERTIFICATION WHEN NO ELIGIBILITY LIST IS AVAILABLE

- A. If less than three qualified applicants apply for an advertised employment vacancy, the names of qualified applicants may be placed on an eligibility list which shall expire when the current vacancy is filled, or a new eligibility list is established.
- B. The eligibility list shall be presented to the Personnel Commission for approval.
- C. The Personnel Director may extend or reopen the recruitment for the position if, in his opinion, additional recruitment efforts will result in additional eligibles.

(Reference: Ed. Code 45272 and 45277)

7.2.8 PROCEDURE OF CERTIFICATION AND APPOINTMENT

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

(Reference: Ed. Code 45260, 45261 and 45272)

7.2.9 WAIVERS OF CERTIFICATION

- A. An eligible may, with valid reason and without penalty, waive certification to specific locations or shifts and to part-time or full-time positions and to limited-term or permanent positions by filing a prescribed form in the Personnel Office.
- B. Certification of eligibles who have waived shall not be made, provided that eligibles may revise or withdraw their waivers in writing.
- C. Eligibles who have waived appointment shall be notified when a new examination for the class is to be held.
- D. Available eligibles may waive certification twice without penalty. Upon requesting a third waiver, eligibles will be informed that their names will be removed from the eligibility list.

(Reference: Ed. Code 45260, 45261 and 45272)

7.2.10 REFUSALS OF APPOINTMENT

An eligible may refuse appointment to a specific position and retain eligibility, provided that refusal of three offers of appointment or certification within the areas of employment shall be cause for removal from the eligibility list. Such action may be appealed in accordance provisions for rejection.

(Reference: Ed. Code 45260, 45261 and 45272)

7.2.11 CERTIFICATION FROM LIST FOR ANOTHER CLASS

- A. 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 level if the duties and qualifications of the class for which the examination was given include substantially all of the duties of the position to be filled, provided that the Personnel Commission finds that the use of the list is in the best interest of the District and that the necessary skills and knowledge were adequately tested in the examination.
- B. The refusal of an eligible to interview for a vacancy in a class other than the one tested for shall not be considered a waiver of certification for the purposes of Rule 7.2.6 D.

(Reference: Ed. Code 45260, 45261, 45272, 45284, 45291 and 45300)

7.2.12 WITHHOLDING NAMES FROM CERTIFICATION

The name of an eligible may be withheld from certification when:

- A. He expresses unwillingness or inability to accept appointment.
- B. He fails to respond within three business days next following inquiry regarding availability for permanent employment or request to appear for interview regarding such employment.

- C. He fails to present himself for duty at the time agreed upon after having accepted an appointment.
- D. He cannot be reached in time for appointment when immediate employment is required.
- E. He fails to present the license, registration, certificate, or any other credential required. (The name of any such eligible shall be restored by the Personnel Director for certification when the particular requirement has been met.)
- F. For any reason listed in Rule 4.1.3.

(Reference: Ed. Code 45260, 45261, 45272 and 45276)

7.2.13 RESTORATION TO CERTIFICATION

- A. When the name of a person has been withheld from an eligibility list or from certification or has been removed from the list, it may be placed on such list or restored thereto by the Personnel Director under the following circumstances:
- B. When the withholding or removal was because of the waiver or inability of the eligible to accept employment, or failure to respond to inquiry as to his availability, to appear for interview, or to present himself for duty, and the applicant presents a good and valid reason and certifies to the Personnel Commission that he is now willing and able to accept appointment.
- C. Respond promptly after receiving notice of certification.
- D. In the event that an eligible is notified of the certification by telephone or telegram, he shall contact or present himself to the appointing power within 24 hours from the time of transmission of such notice.
- E. Failure of an eligible to respond within the above-stated times will be deemed an automatic waiver of certification, and the Personnel Director may certify an additional name in lieu of the name of such eligible.
- F. An eligible who has been certified shall be allowed two weeks to report for duty after an offer of appointment to a permanent position has been made. If he is unable or unwilling to report by the end of two weeks, he may be considered to have refused appointment; and the appointing power may request certification of another name from the eligibility or re-employment list.
- G. The date of the offer of appointment shall be the date on which the eligible is notified by the Personnel Director or designee of his selection.
- H. Notification may be made by telephone, telegram, or registered or certified mail.

- I. The appointing power may allow a period longer than two weeks at its discretion.
- J. When appointment is to a limited-term position, the eligible must be available on the date specified by the appointing power.
- K. Failure or neglect on the part of any eligible to file such information may cause his name to be removed from the eligibility list.

(Reference: Ed. Code 45260, 45261 and 45293)

7.2.14 SUBJECTS PROHIBITED BY QUESTIONS

No questions relating to political or religious opinions or affiliations, race, color, national origin or ancestry, sex, or marital status shall be asked of any applicant or any eligible whose name has been certified for appointment, nor shall any discrimination be exercised therefore.

(Reference: Ed. Code 45260, 45261 and 45293)

7.2.15 LANGUAGE REQUIREMENT CERTIFICATION

- A. When the ability to speak, read, or write a language in addition to English is a requirement of a position(s) to be filled, the Personnel Director shall certify the eligibles with the highest three ranks on the appropriate eligibility list who meet the language requirement(s) and who are ready and willing to accept the position(s).
- B. If there are insufficient candidates who meet the language requirements, a provisional appointment may be made of an employee who meets the language requirement.

(Reference: Ed. Code 45260, 45261, & 45293)

7.2.16 CERTIFICATION OF ADDITIONAL ELIGIBLES

- A. If, after certification of eligibles, the appointing authority desires certification of additional eligibles per Rule 7.2.5 D, a written request will be submitted to the Personnel Director which shall:
- B. Specify the number of additional eligibles required.
- C. Detail all pertinent data which requires the certification of additional eligibles including the name of the eligibles certified who refused appointment (and reasons given) or failed to respond for the interview.
- D. The Personnel Director, when the request is received, shall immediately investigate the matter to determine if the request is validly made and, specifically, to determine that an appointment refusal was voluntary on the part of the concerned eligible. He shall:
- E. If he finds the request to be valid:

1. Certify additional eligibles as may be required.
 2. Remove from the eligibility list, at his discretion, the names of eligibles who failed to report for interview or who refused appointment, and notify the eligibles of his action and their right of appeal to the Commission.
- F. If he finds that a refusal of appointment was not voluntary and free of any type of duress, he shall:
1. Notify the appointing authority of his findings and refuse to certify additional eligibles, citing the provisions of this rule.
 2. Refer the matter to the Personnel Commission together with his findings and recommendations which may include suggested action under Education Code Section 45317.
 3. Advise the appointing authority of the date of his report to the Commission in order to enable appropriate representation.

(Reference: Ed. Code 45260, 45261, 45272 & 45317)

7.3 LIMITED TERM APPOINTMENTS

7.3.1 TYPES AND LIMITS OF LIMITED TERM APPOINTMENTS

- A. Limited term appointments are “at will” appointments that may be terminated at any time by the appointing authority with or without cause.
- B. Limited term appointments are to be made in accord with the Rules, statutes, case law, and the “principle of merit.”
- C. All limited term appointments shall be considered as “appointments” to the classified service.
- D. Persons given limited term appointments do not earn permanency, benefits, the right to take promotional examinations, or seniority as a result of those limited term appointments except as otherwise due them by reason of regular appointment pursuant to the Rules, or as provided for by a memorandum of understanding.
- E. No limited term appointment shall extend past June 30 of the fiscal or school year in which the appointment is made. Limited term appointments, if otherwise permitted by Rule or statute, may be reappointed in the next school or fiscal year.
- F. Only the following type of limited term appointments may be made:
 1. **Limited Term Relief:** An appointment to a position necessitated by a temporary workload or work situation requiring temporary additional staffing not to exceed a total of six (6) months.
 2. **Substitute:** An appointment made to fill a temporary vacancy due to the absence of a regular employee.

3. **Provisional:** An appointment made when there is a vacancy in an approved position and an eligible list has not been established.
 4. **Summer Assignment:** An assignment of a regular classified employee made during the normal summer vacation period due to vacancies, absences, summer school staffing requirements, or special projects.
 5. **Out-of-Class:** An appointment made when an employee in a lower classification is required to work at a higher classification due to a vacancy, the absence of a regular employee, or to meet a temporary increase in workload.
 6. **Emergency:** An appointment not to exceed 15 working days in an actual emergency and persons on eligibility lists are not immediately available for appointment.
- G. Limited term appointments may not be used as a method to avoid the permanent appointment of a classified employee pursuant to the Rules and the Merit System.
- H. Except as otherwise provided in the Rules, limited term appointments shall be distributed as far as practicable among those qualified persons interested in the appointment so that over the course of a year, the work has been equally distributed as far as practicable to all qualified and interested employees.
1. Equal distribution of work serves both the principle of merit and ensures that a cadre of qualified staff is ready and available to meet the necessary workload.
 2. Equal distribution of work also meets the principle of merit by ensuring that employees have an equal opportunity to gain valuable job related experience that will assist them in final placement on an eligibility list for permanent hiring based on an objective selection process.
 3. When the Personnel Director certifies the classified payroll pursuant to Education Code 45310 for limited term appointments, such certification shall mean that the Personnel Director has found that the appointment has been made in accord with the principle of merit as well as in conformity with the Rules and the Education Code.
- I. Limited term appointments are made by the Human Resources Department in accord with these Rules unless the Personnel Director has approved a limited term appointment independent of the appointments made by the Human Resources Department.
- J. The Personnel Director shall ensure that limited term appointments are made in accord with the Rules and applicable statutes and case law. In carrying out this responsibility, the Personnel Director, subject to appeal to the Commission,

1. May place restrictions or limits on limited term appointments.
2. Shall consider the extent to which a particular limited term appointment may violate the principle of merit both as to the limited term appointment as well as to a potential permanent assignment of an employee arising out of the limited term appointment.
3. Shall monitor limited term appointments made by the district. Such monitoring includes the authority to impose procedures to ensure that the principle of merit is adhered to in limited-term appointments.
4. May modify a specific appointment or may terminate a specific appointment at any time during the original authorization if he determines that such action is necessary to ensure compliance with the Rules, statute, or the principle of merit.

(REFERENCE: ED. CODE 45260, 45261 45266, 45272, 45273, 45286, 45287, 45288, 45289, AND 45290)
REVISED: First Reading 6/5/06; Second Reading And Adoption 7/10/07

7.3.2 LIMITED TERM APPOINTMENT QUALIFICATIONS

- A. Employees on a rehire list who are willing and able to work a substitute assignment from which they were laid off or for another assignment for which they are otherwise qualified, shall be given priority over other employees being given limited term appointments.
- B. Persons shall be certified in accordance with their positions on current eligibility lists and their willingness to accept appointments as limited term employees. If there is no current employment list for the classification or if there are insufficient persons willing to accept a limited term appointment, then appointments shall be made:
 1. From the past eligible lists that have expired.
 2. From those who meet the minimum qualifications if not on a current or past eligibility list.
 3. From those who have been approved by the Personnel Director if they are not on or have not been on an eligible list and do not meet the minimum qualifications if the Personnel Director finds that the appointment is necessary to carry out the important work of the district and that it is not feasible or practicable to appoint from an eligible list or to appoint someone who meets the minimum qualifications.
- C. In no case shall the duration of a limited term substitute exceed the absence of the regular classified employee being substituted for.

(Reference: Ed. Code 45260, 45261 and 45286)

7.3.3 SUBSTITUTE LIMITED TERM APPOINTMENTS

- A. The appointing power shall notify the Personnel Director when a substitute limited term employee has worked in one position for more than nineteen working days in any thirty day period.
- B. In no case shall the duration of a limited term substitute exceed the absence of the regular classified employee being substituted for.

(Reference: Ed. Code 45260, 45261 and 45286)

7.3.4 LIMITED TERM RELIEF APPOINTMENTS

- A. The appointing power shall submit a written request to the Personnel Director for a limited term relief assignment in which the probable duration of the appointment shall be stated prior to the first day of work for the limited term relief assignment.
- B. In no case shall limited term relief assignments exceed an aggregate of six months of service in one organizational unit during any fiscal year unless the Personnel Director finds that the aggregate assignments in excess of six months are required to perform critical functions of the district that are not otherwise feasible or practicable.
- C. No individual employee may serve in a limited relief position that exceeds a total of six months in any fiscal year. An employee who has served a total of six months in a limited relief position may not serve an additional limited relief assignment for the remainder of the fiscal year.
- D. No limited term relief position may exceed six months in any fiscal year for any organizational entity or unit. The Personnel Director, subject to appeal to the Commission, shall determine when a limited term relief position constitutes an assignment to an organizational entity or unit.
- E. The Personnel Director may place a shorter time limit on a limited term relief appointment, subject to appeal to the Commission, if the Personnel Director determines that a shorter period of time will meet the needs of the District or if he determines that the appointment is creating a *de facto* classified position that is being filled outside of the merit system.
- F. In the event of an emergency by the President of the United States or the Governor, the Commission, upon written request from the Superintendent, may extend the duties of a limited term assignment to one year, provided that the extended duties are related to the emergency.

(Reference: Ed. Code 45260, 45261 and 45286)

Revised: First Reading 6/5/06; Second reading and adoption 7/10/07

7.3.5 PROVISIONAL APPOINTMENTS

- A. The appointing authority may request a provisional appointment when the Personnel Director certifies that:
 - 1. No eligibility list exists for the class, or
 - 2. An eligibility list exists, but there are an insufficient number of available eligibles (i.e. less than 3) and the appointing authority refuses to appoint an available eligible, or
 - 3. An eligibility list exists and an eligible is being processed for hire but has not yet completed all employment actions to commence assignment.
- B. An employee or applicant may receive a provisional appointment or appointments which may accumulate to a total of 90 working days, after which a 90-calendar-day interval shall elapse during which he shall be ineligible to serve in any full-time provisional capacity.
- C. No person shall be employed in any provisional capacity for a total of more than 126 working days in any one fiscal year, except that when no one is available on an appropriate eligibility list for a part-time position as defined in Education Code Section 45256, successive 90-working-day provisional appointments may be made to the part-time position for a total of more than 126 working days in a fiscal year.
- D. Insofar as possible, provisional appointees shall be required to meet the minimum qualifications for the class of the appointment as stated in the class description. When no one who meets the minimum qualifications is available, a Conditional Provisional appointment may be made. Such appointments shall be terminated as soon as the Personnel Director can certify a qualified applicant.
- E. The Commission may extend the 90-working-day provisional appointment for a period not to exceed 36 additional working days provided:
 - 1. An examination for the class was completed during the initial 90 work days of the employee's provisional assignment.
 - 2. Satisfactory evidence is presented indicating:
 - a. Adequate recruitment effort has been and is being made.
 - b. Extension of this provisional assignment is necessary to carry on vital functions of the district.
 - 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.
- L. The services of a provisional appointee shall be terminated within 15 working days after the date on which an eligibility list has been established, provided that this 15-day period does not extend

beyond the 90-working-day provisional assignment or the additional 36 working days if authorized by these Rules.

- M. A provisional appointment may be terminated at any time, at the discretion of the appointing power.

(Reference: Ed. Code 45262, 45260, 45261, 45287, 45288 and 45289)

7.3.6 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 Board of Education through its authorized department heads, may request the Personnel Director to provide a person without reference to the eligibility lists, for a period not to exceed 15 working days.
- B. When such emergency appointments are requested, it shall be the duty of the authorized department heads to notify the Personnel Director in writing of the date needed, nature of duties performed, and the reason justifying the nature of such appointments. Time served under such emergency appointments shall be considered as provisional appointments and subject accordingly to the Rules on provisional appointments.

(Reference: Ed. Code 45260, 45261, & 45290)

7.4 PROFESSIONAL EXPERTS AND INDEPENDENT SERVICES CONTRACTOR

7.4.1 PROFESSIONAL EXPERTS DEFINED

- A. A professional expert is an individual, company or corporation engaged in an independent business of its own that provides personal services on a fee or contractual basis.
- B. Professional experts and independent services contractors are exempt from the classified service and obtain no permanency in the classified service regardless of the nature of the duties performed.
- C. In order to be considered an independent services contractor or a professional expert, an individual must be recognized as such by reputable members of his own profession, by possessing advanced professional degrees, by being licensed by a state agency, by holding membership in a professional society or professional organization, or having special skills such as artists, musicians, entertainers, engineers, etc.

7.4.2 CERTIFICATION OF PROFESSIONAL EXPERTS

- B. When the District proposes to recommend appointment of professional experts as defined in these Rules, it must have prior approval of the Personnel Director.

- C. Professional Experts shall meet the conditions of these rules and the positions shall be established on a temporary basis for a specific project or when so designated by the Commission.

7.4.3 LIMITATIONS ON PROFESSIONAL EXPERTS

- A. Professional experts shall be retained as independent contractors and shall meet federal and state requirements as independent contractors for the duration of their services.
- B. A person with an employer-employee relationship with the District shall not be hired as an independent services contractor or a professional expert.
- C. Professional experts shall not be retained to avoid payment of overtime to classified employees, or to fill a limited term position if the duties and responsibilities fit an existing classification for which a re-employment or eligibility list exists.
- D. Authorization for service as an independent services contractor or a professional expert shall not exceed six months. An extension of the contract for professional expert services shall be submitted to the Commission for approval, along with a justification of the need to continue the term of service and a new termination date not to exceed 6 months.
- E. An independent services contractor or a professional expert does not gain permanency in the classified service or any seniority in any classification as a result of their employment as an independent services contractor or a professional expert.
- F. In no case may any person be appointed or paid from funds from the District when that person's contribution consists solely of individual professional services, which are normally performed, or could be reasonably expected to be performed, by the classified employees.

7.4.4 APPOINTMENT OF PROFESSIONAL EXPERTS

- A. Whenever a personal services contract for a professional expert assignment is to be submitted to the Board of Education, the business manager (as specified in Education Code Section 45280) shall first submit to the Personnel Director
 1. A description of the project, its duration, and the duties to be performed.
 2. The name and qualifications of the professional expert
 3. Evidence of the professional qualifications or special skills of the expert

4. Certification that the employment of the professional expert conforms to Education Code Section 45103.1 and that all applicable requirements of Education Code Section 45103.1 have been met.

B. When the Personnel Director determines that the contract for professional expert services complies with the Education Code and with the Personnel Commission Rules, he shall submit the matter to the Commission for the Commission's designation of employment of a professional expert. The Personnel Director shall then convey the Commission's determination to the business manager for additional action as necessary by the Board of Education and District Administration.

(References: Ed. Code 45103.1 and 45256)