

**EMPLOYMENT REGULATIONS
FOR THE
CLASSIFIED SERVICE
OF THE
SAN DIEGO UNIFIED
SCHOOL DISTRICT**

**Adopted by the Board of Education
January 22, 2008**

RULES AND REGULATIONS
FOR THE
CLASSIFIED SERVICE EMPLOYEES

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San Diego Unified School District
San Diego, California

**EMPLOYMENT REGULATIONS FOR THE CLASSIFIED SERVICE
OF THE SAN DIEGO UNIFIED SCHOOL DISTRICT**

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ARTICLE I GENERAL

1. CREATION OF REGULATIONS

The Board of Education of the San Diego Unified School District of San Diego County, California, affirms and ratifies these Employment Regulations for the Classified Service of the San Diego Unified School District (hereafter Regulations) governing the employment, retention, promotion, and dismissal of classified employees of this school district. These Regulations will replace the “Merit System Rules for Classified Employees” initially adopted on June 25, 1940, and last revised on June 24, 1997.

These Regulations exist by and under the authority of the Board of Education for the dual purpose of guaranteeing that the classified employees of this school district are comprised only of the highest quality persons capable of superior job performance and ensuring that employees of the classified service receive fair and reasonable job protection and employment security.

2. SCOPE OF REGULATIONS

In addition to the dual purpose described in Section 1 of this Article, provisions are made in these Regulations of the Board of Education for the following:

- a. Hearing officers whose function is to hear all appeals of permanent classified employees from demotion, suspension, or dismissal and to hear complaints in accordance with the complaint procedure in these Regulations.
- b. Chief Human Resources Officer, whose function is to administer these Regulations under the supervision of the Superintendent of Public Education.
- c. Employment of classified employees without regard to gender, sexual orientation, race, color, religious creed, national origin, ancestry, age more than 40, marital status, physical or mental disability, or Vietnam era veteran status.
- d. Retention and promotion of classified employees in accordance with the Regulations set forth in this document.
- e. Demotion, suspension, or dismissal of classified employees in accordance with the Regulations set forth in this document.

3. APPLICATION OF REGULATIONS

These Regulations apply to all classified positions and persons employed to fill classified positions, with the following exceptions:

- a. Positions designated as management or confidential by the Board of Education are exempt from the recruitment rules contained in these Regulations.

- b. Positions designated as confidential by the Board of Education are exempt from the layoff and reemployment rules contained in these Regulations.

These Regulations do not apply to employees outside the classified service as follows:

- a. Positions required by the California Education Code to have certification qualifications.
- b. Substitute and short-term employees employed and paid for less than 75% of a school year.
- c. Full-time students employed part time and part-time students employed part time in any college work-study program or in a work experience education program.
- d. Part-time playground positions, apprentices and professional experts employed on a temporary, short-term basis for specific projects.

4. AMENDMENT OF REGULATIONS

These Regulations may be amended at any regular public meeting of the Board of Education, provided that a written notice of the proposal to amend the Regulations includes the complete text of the proposed amendment, has first been publicly considered by the Board of Education at a previous regular public meeting, and written notice has first been given and recommendations sought from all classified employee bargaining unit exclusive representatives, the Administrators' Association of San Diego, and all other non-represented classified employee groups.

5. RELATIONSHIP OF REGULATIONS AND STATUTES GOVERNING EMPLOYER-EMPLOYEE RELATIONS

Some of these Regulations may be subject to negotiation with exclusive representative employee organizations under statutes governing employer-employee relations. Where agreements are reached between the district and an exclusive representative employees' organization and are included in a bilateral contract, the agreements in a contract will supersede these Regulations.

ARTICLE II DEFINITIONS

The words and phrases used in these Regulations are defined below:

1. **APPLICANT** - a person who, during the announced filing period, completes application requirements for vacant positions.
2. **CLASSIFICATION** - positions in the classified service that have a designated title, a regular minimum number of assigned hours per day, days per week, and months per year, a specific statement of duties required to be performed by the employees in such position, and regular monthly salary ranges for the positions (Education Code Section 45101). Classifications in the district have an official title and district position description.
3. **CONTINUOUS FILING** - a method used to recruit high volume or difficult to fill positions for which there is no filing deadline.
4. **DAY** - any day the central administrative offices of the San Diego Unified School District are open for business. Unless otherwise specified, means workday or workdays.
5. **DEMOTION** - assignment to an inferior position or status without the employee's written, voluntary consent.
6. **DISMISSAL** – involuntary separation from the district for cause.
7. **DISTRICT SENIORITY** - the total length of service since the most recent hire date as a regular classified employee with the district.
8. **EMPLOYEE** - a person who is an incumbent in a classified position or who is on authorized leave of absence.
9. **HIRING PROCESS** - the process of testing and evaluating applicants who comply with the application procedures established by the district for specific positions.
10. **INITIAL HIRE DATE** - the date a classified employee first served as a monthly or hourly employee.
11. **LAYOFF** – a separation from employment because of lack of work or lack of funds and includes any reduction in hours of employment or assignment to a class or grade lower than that in which the employee has permanence, voluntarily consented to by the employee, in order to avoid interruption of employment by layoff (Education Code 45101).
12. **LENGTH OF SERVICE** - most recent hire date in the district as a monthly or hourly employee.
13. **LENGTH OF SERVICE IN CLASSIFICATION** - most recent hire date in classification.

14. **OPEN POSTING** - a position posting which is open to all persons, whether employed by the district or not, who meet specified qualifications and comply with the application requirements of the district.
15. **PERMANENT POSITION** - a position approved by the Board of Education as a permanent classified position.
16. **PERMANENT/PROBATIONARY EMPLOYEE** - an employee who has previously attained permanent status and is currently serving a new probationary period in a different classification.
17. **PERMANENT EMPLOYEE** - the employment status of an employee who has successfully completed the prescribed probationary period.
18. **PROBATIONARY EMPLOYEE** - a classified employee who is serving the probationary period prescribed by these Regulations.
19. **PROMOTION** - the upward mobility of a classified employee to a position with a higher salary.
20. **PROMOTIONAL/OPEN POSTING** – a position posting in which employees and persons not employed by the district can compete. Both employees and persons not employed by the district are rank ordered by scores from the selection process. Selection to a vacant position is made from the top ten available monthly salaried employees on the list. If fewer than ten monthly salaried employees are available for selection to fill a vacant position, the difference is made up with persons not employed by the district in the order that they were ranked on the list. Former employees who are on a reemployment list will be treated as monthly salaried employees.
21. **PROMOTIONAL POSTING** – a position posting which is open only to monthly salaried employees of this school district or former permanent-status employees who are on a reemployment list as a result of layoff, who meet specified qualifications and comply with the application procedures established by this school district.
22. **RECLASSIFICATION** - the upgrading of a position to a higher classification as a result of a gradual increase of the duties being performed by the incumbent in the position (Education Code 45101).
23. **REGULAR CLASSIFIED EMPLOYEE** - a permanent or probationary classified employee serving in a position which has been approved by the Board of Education as a permanent position.
24. **SUBSTITUTE EMPLOYEE** - an individual who is employed to replace a classified employee who is temporarily absent from duty or who is filling, for not more than 60 calendar days, a position that is temporarily vacant.
25. **SHORT-TERM EMPLOYEE** - an individual who is employed to perform a service for the district, upon the completion of which, the service required or similar services will not be extended or needed on a continuing basis (Education Code 45103).

- 26. VOLUNTARY ACCEPTANCE OF A POSITION IN A LOWER SALARY GRADE** - an eligible classified employee may, with the approval of the Chief Human Resources Officer, or designee, accept an appointment at a lower salary in a position for which the employee is qualified. Placement at the lower salary will not affect the employee's right to be considered for higher level positions.

ARTICLE III CLASSIFICATION

1. MAINTENANCE OF CLASSIFICATION PLAN

The Board of Education shall fix and prescribe the duties to be performed by all persons in the classified service. The Superintendent of Public Education shall be responsible for the development and maintenance of an employee classification plan, which provides for the standardization and the classification of all positions in the classified service. Appointments to these regular positions will be made by the Board of Education in accordance with the Regulations in this document.

2. CHANGES IN CLASSIFICATIONS

The Board of Education may create, abolish, or combine classifications of employees in the classified service.

3. EFFECT OF RECLASSIFICATION ON INCUMBENT EMPLOYEE

Classified employees occupying positions which are reclassified to a new or different classification will be reclassified to the new classification without regard to other provisions of these Regulations, except that when such reclassification results in a promotion, the employee will be required to serve the required probationary period. The salary of an employee in such reclassified position will be determined in accordance with the current salary rules and regulations adopted by the Board of Education.

4. CHANGE OF CLASSIFICATION INVOLVING LOSS OF SALARY

A position may be changed to a lower classification as a result of a decrease in duties performed by the incumbent(s) and will result in the loss of salary. This change is not due to employee performance.

ARTICLE IV

RECRUITMENT, PROMOTION, TRANSFER AND HIRING PROCESS

1. RECRUITMENT

Recruiting efforts will be planned and carried out in a manner that assures open, fair, and equal competition in an effort to identify and hire the best-qualified applicants for positions and give employees an opportunity for advancement.

2. POSTING OF VACANCIES

Notice of vacancies shall be posted for a minimum of ten workdays. The vacancy notice shall include: job title, assigned work site, number of hours per week and months per year assigned to the position, salary range, unit to which the position is assigned, and the deadline for applying. The notice may also include position criteria unique to the site or specific position being posted. Site-specific criteria must be consistent with the job classification. The Director, Classified Personnel or designee will review site-specific criteria prior to posting. Positions will be advertised utilizing the most current and available technology.

The Director, Classified Personnel or designee shall determine whether the position will be posted as promotional, promotional/open, or open.

Position descriptions for all positions within the classified service will be posted on the district's web site and will be available upon request from Human Resources.

High volume positions and positions that are difficult to fill may be posted as "continuous filing" until qualified applicants apply. The interviews and selection process may occur at any time after qualified applicants are identified.

3. EMPLOYEE-INITIATED PROMOTION

Following are procedures for employee-initiated promotion:

Permanent Employees

- Permanent employees may apply for promotion.
- Permanent employees selected for promotion shall start a new 12-month probationary period in the new position.

Permanent/Probationary Employees

- Permanent/probationary employees may apply for promotion.
- Permanent/probationary employees selected for promotion shall start a new 12-month probationary period in the new position.
- Permanent/probationary employees who do not successfully complete the probationary period in the new position will have the right to be returned to the former position in which the employee held permanent status.

Probationary Employees

- Probationary employees may apply for promotion.
- Probationary employees selected for promotion have not attained permanent status in the position in which they were probationary and shall start a new 12-month probationary period in the new position.

4. APPLICATION PROCESS

Any eligible person may request consideration for a posted vacancy by submitting required application forms within the application period.

- a. Applications must contain current and pertinent information.
- b. Applications that are incomplete, or submitted after the filing deadline will not be accepted.
- c. A resume without an application will not receive consideration.
- d. In order to be considered as meeting minimum qualifications, copies of degrees, transcripts, certifications, and supporting documents must be submitted with the application.
- e. Applicants seeking veterans' preference will be required to submit supporting documents in order to receive consideration.

5. ORDER OF CONSIDERATION FOR FILLING VACANCIES

- a. Persons on reemployment lists.
- b. Employees returning from leaves of absence, workers' compensation releases, administrative reassignments, or reassignments due to illness or injury.
- c. Employees requesting transfer and:
 1. internal applicants for promotional posting or
 2. internal and external applicants for promotional/open posting or
 3. internal and external applicants for an open posting.

6. HIRING CRITERIA

In filling a vacancy, the hiring manager may consider:

- a. Qualifications including education, experience, training, and related skills.
- b. Test scores.
- c. Performance evaluations.
- d. Length of district service.

- e. Record of attendance.
- f. Work history.

7. NOTIFICATION PROCESS

The selection process will not be complete until successful and unsuccessful candidates have been notified.

8. TESTING

Positions may require testing to determine the applicants' knowledge, skills, and abilities. Tests may be written, oral, electronic, practical demonstration of knowledge, skills, and abilities, or any combination of these. Any inquiry into education, experience, background, or any examination of knowledge, skill, or physical and mental ability which is determined by the Human Resource Services Division in accordance with Federal and State law to be appropriately job related may be used. Upon request, reasonable accommodations may be made in compliance with the Americans with Disabilities Act.

Instructional Assistant applicants must provide proof of a high school diploma or General Education Diploma (GED) and must pass the district's Classroom Assistant Proficiency Exam (CAPE) test unless the following applies:

An applicant has forty-eight qualifying units or a two-year degree or better from an accredited educational institution in the United States of America will be considered to have met the basic skills proficiency requirements. Units/degrees from foreign countries must be evaluated for United States of America equivalency before being accepted by the Human Resource Services Division. The applicant is responsible for having the units/degree evaluated.

Documentation of the above requirements for basic skills proficiency must be submitted to the Human Resource Services Division during the application process. The district charges a fee for administration of the CAPE test.

9. CANDIDATES REFERRED FOR INTERVIEWS

- a. Applications will be paper screened for minimum qualifications of the position based on objective criteria. Human Resources will send names of the top ten candidates, their ranking and test scores, and names of all employees requesting transfer to the hiring manager for review. For a promotional posting, all ten applicants will be internal. For a promotional/open posting, the top ten internal applicants will be provided unless there is an insufficient number and then the list will be supplemented with the top external applicants to make up the ten. For open postings, the top ten will be whatever mix of internal and external applicants rank as the top ten.
- b. The hiring manager must interview candidates who are ranked numbers one through five. In order to interview additional candidates beyond those ranked in the top five; the hiring manager must interview the others in chronological order by ranking. In addition, an

equal number of employees requesting transfer (if available) must be interviewed. The hiring manager will select the best candidate during the hiring process.

- c. All Instructional Assistant job classifications, Community Assistants, Bus Monitors, Special Education Bus Monitors, Special Needs Assistants, Special Education Technicians and Instructional Behavior Technicians will not be ranked and a list will be provided of the entire applicant pool. Test scores, if available, will be provided to the hiring manager.
- d. Interviews may be waived, at the discretion of the hiring manager, for the following job classifications: All Instructional Assistant job classifications, Special Needs Assistant, Special Education Bus Monitor, Special Education Technician, Instructional Behavior Technician, and Food Service Worker I.

10. CREDIT FOR SERVICE IN THE UNITED STATES ARMED FORCES

- a. Credit of five percent of the maximum rating, in addition to all other credits, shall be given to any applicant who has been on active duty in the armed forces of the United States of America, or in any uniformed auxiliary of, or to any branch of such military service created or authorized as defined in Section 205 of the Revenue and Taxation Code of the State of California, or as said section may hereafter be amended, and who has been honorably returned to civilian status.
- b. It shall be provided further that any applicant seeking the benefit of this section shall first meet the minimum testing qualifications in order to receive any such credits.

11. HIRING PROCEDURE

The Human Resource Services Division will establish regulations governing the detail of hiring procedures.

ARTICLE V
PROBATIONARY AND PERMANENT STATUS
AND RIGHTS OF PERMANENT EMPLOYEES

1. PROBATIONARY PERIOD

All original appointments or promotions shall be for a probationary period of one calendar year. Such calendar year shall be twelve months from the date of initial appointment in the original or promotional position. In the event that an employee is granted a leave of absence, the period of leave shall not be counted in determining the twelve months of required probationary service.

2. EVALUATION DURING PROBATIONARY PERIOD

During the initial probationary period with the district, each classified employee will be evaluated to ascertain the employee's ability to meet the standards of performance, conduct, and integrity required for permanent status. Performance evaluations may be used in determining these qualifications. Employees who have a summary evaluation rated less than satisfactory prior to completion of the probationary period shall be released from employment for failure to satisfactorily complete the probationary period.

3. TEMPORARY WORK

Service as a substitute, hourly employee, or any other short-term or temporary work will not constitute service toward fulfillment of the probationary period.

4. REASSIGNMENT OF REGULAR EMPLOYEE DUE TO ILLNESS OR INJURY

A regular classified employee who is determined to be incapable of performing the duties of the classification because of illness or injury may, at the discretion of the Superintendent of Public Education or designee, be appointed to a position which the employee is capable of performing. If the position is at a higher classification, the employee shall receive an increase in salary if the employee meets the minimum qualifications for the position. In the event that the employee does not meet the minimum qualifications of the position then the employee shall continue to receive the salary of the former classification until the employee meets the minimum qualifications of the position. If the position is classified at a lower salary than that attained by the employee, the employee shall be paid the salary appropriate to the position.

5. RIGHTS AND BENEFITS UPON CHANGE FROM CERTIFICATED TO CLASSIFIED

If a certificated employee of the district is assigned to a classified position, the employee shall retain all sickness and injury, sabbatical leave, and other rights and benefits. All seniority and tenure rights accumulated by the employee at the time of the assignment to the classified position shall be secured to the employee while in the classified service. The employee's return to certificated service at any time shall be treated as if there had not been an interruption in his or her certificated service (Education Code 44063).

6. RIGHTS AND BENEFITS UPON CHANGE FROM CLASSIFIED TO CERTIFICATED

If a classified employee is assigned to a certificated position in the district, the employee shall retain all sick leave, vacation, and other rights and benefits accumulated by the employee at the time he or she is assigned to a certificated position. All seniority and permanency rights shall be secured to the employee during the period of time he or she occupies a position in the certificated service. The employee's return to the classified service at any time shall be treated as if there had not been an interruption in his or her classified service (Education Code 44064).

ARTICLE VI

DISCIPLINARY ACTIONS, APPEALS, AND HEARINGS

1. GROUNDS FOR DISCIPLINE

The continued employment of any permanent employee is contingent upon proper performance of assigned duties and personal fitness. The district will administer discipline progressively whenever possible. The following are declared to be causes for the suspension, demotion, or dismissal of any permanent employee:

- a. Unsatisfactory performance.
- b. Insubordination.
- c. Failure to obey reasonable regulations or directives.
- d. Willful and persistent violation of the Education Code, these Regulations, district policies, and/or procedures.
- e. Conviction of a felony.
- f. Conviction of a misdemeanor involving moral turpitude.
- g. Dishonesty.
- h. Immoral conduct.
- i. Use of or under the influence of alcohol or illegal drugs while on duty.
- j. Falsification of application information or other documents submitted to the district.
- k. Political activity during assigned duty hours.
- l. Persistent discourteous treatment of employees, supervisors, the public, or others.
- m. Physical or mental incapacity.
- n. Absence from duty without leave.
- o. History of and continuing absences.
- p. Chronic failure to observe work hours.
- q. Loss of required licenses or certifications.
- r. Sexual harassment.

2. PRE-DISCIPLINARY CONFERENCE

Prior to any recommended disciplinary action being instituted, employees shall be notified in writing of the allegations against them and shall be provided with the opportunity to respond to the allegations at a pre-disciplinary conference with the Director, Classified Personnel or designee. Employees shall be informed of their right to representation at the conference.

3. SUSPENSION OF CLASSIFIED EMPLOYEE FOR REASONABLE CAUSE

For reasonable cause, the Superintendent of Public Education or designee may suspend, without pay, a permanent classified employee for a period of not more than twenty-two workdays. The employee shall be furnished with a written statement of the reasons for such suspension, which shall be equivalent to a written accusation as specified in Section 6 of this Article, within three workdays after being notified of suspension.

4. APPEAL FROM SUSPENSION

A permanent employee who has been suspended may request a hearing before a hearing officer by following the procedure in Section 8. The hearing shall be conducted as provided for in Section 9. The decision of the hearing officer in each case shall be final.

5. SUSPENSION OF CLASSIFIED EMPLOYEE DUE TO ACCUSATION OF CRIME

Upon the filing of a complaint, information, or indictment that a permanent classified employee has committed any serious or violent crime, the Superintendent of Public Education may recommend to the Board of Education the suspension of the employee without pay. The period of the recommended suspension shall not extend for more than ten calendar days after the date the court judgment is entered. The employee shall be provided a written statement of the reason for the suspension within three workdays after being notified of the suspension. The statement shall be equivalent to a written accusation specified in Section 6 of this Article.

The employee shall be subject to loss of pay for the period of the suspension unless the court adjudges the employee not guilty, or unless the complaint, information, or indictment is dismissed. In such a case, the district shall pay the employee's full compensation for the period of the suspension provided the employee notifies the district of the disposition of the case and returns to service immediately. An employee suspended pursuant to this paragraph may be subject to further action under this Article upon disposition of the criminal case against the employee.

Any employee suspended pursuant to this Section shall continue to receive the employee's regular salary during the period of the suspension if the employee furnishes the district with a suitable bond or other security acceptable to the Governing Board. The bond or security is a guarantee that the employee will repay the district the amount of salary received during the period of the suspension if the employee is convicted of the charges or fails or refuses to return to service following an acquittal or dismissal of the charges. If the employee is acquitted of the offense or the charges are dismissed, the district will reimburse the employee for the cost of the bond upon the employee's return to service with the district.

6. DEMOTION OR DISMISSAL OF CLASSIFIED EMPLOYEE

For any of the causes enumerated in Section 1 of this Article, the Superintendent of Public Education may recommend to the Board of Education that a permanent employee be demoted or dismissed. The Superintendent of Public Education, when recommending such demotion or dismissal, shall file a written accusation with the Board of Education. The written accusation will be sufficiently definite to enable the accused employee to prepare a defense on the merits of the case.

The Board of Education shall receive the recommendation of the Superintendent of Public Education or designee and shall either:

- a. Approve the recommendation, directing the employee be notified that the employee shall be demoted or dismissed from the employ of the district unless the employee requests a hearing within five workdays after receipt of the written accusation or,
- b. Disapprove the recommendation, in which event the employee shall be continued as an employee of the district, without prejudice as to the recommendation of the Superintendent of Public Education to dismiss the employee.

7. WRITTEN NOTICE

The Superintendent of Public Education or designee shall give the employee written notice of the action of the Board of Education on the recommendation for dismissal or demotion within five workdays after the Board meeting at which action was taken. This notification shall include:

- a. A statement that the employee shall be demoted or dismissed unless the employee requests a hearing within the specified time;
- b. A copy of the accusation or charges in ordinary and concise language setting forth the specific acts and/or omissions upon which the accusation or charges are based. It should also include a statement of the cause or reason for the action taken and if it is claimed that an employee has violated a rule or regulation of the district, this rule or regulation should also be set forth;
- c. A statement of the employee's right to a hearing on the charges, including a statement of the time within which the hearing may be requested;
- d. A card or paper, the signing and filing of which shall constitute a request for hearing, and a denial of all charges.
- e. The notice shall be either hand delivered or sent via certified mail, return receipt requested. Hand delivered notices must be signed by the employee to acknowledge receipt.

8. REQUEST FOR A HEARING REGARDING DEMOTION OR DISMISSAL

A permanent employee who has been recommended for demotion or dismissal may request a hearing before a hearing officer within five workdays after receipt of a copy of the written accusation by filing with the Board of Education the "Request for Hearing and Answer" included with the written accusation. Requests for a hearing may be made only on the following grounds:

- a. That the procedures set forth in this document have not been followed by the Board of Education or its officers.
- b. That sufficient cause does not exist to justify the action of the Board of Education.
- c. That there has been an abuse of discretion.

9. CONDUCT OF HEARING

A hearing officer will begin the hearing within fifteen workdays from the day a written request for hearing and a written answer to the charges is received by the Board of Education. The hearing date may be continued for one time at the request of the district or the employee with the approval of the hearing officer upon the showing of good cause.

Additional continuances may be obtained by mutual agreement of the parties involved. The hearing will be confined to the reasons for action set forth by the Superintendent of Public Education or designee in the written charges and to relevant defenses set forth in the appeal. Equal opportunity will be afforded the Board of Education and the employee to present evidence. The findings of the hearing officer will be rendered in writing to the employee and the Board of Education within seven workdays after the hearing is closed. The decision of the hearing officer in each case is final and effective on the date when rendered.

10. LIMITATION ON NUMBER OF HEARINGS

A suspended, demoted, or dismissed employee shall be entitled to only one hearing before a hearing officer on the same reasons on which such employee's suspension, demotion, or dismissal was based. Wherever this Article requires that an employee be furnished with written papers of any kind, such requirements will be deemed to have been satisfied if an envelope containing such written papers has been deposited in certified mail addressed to the employee at the last address of official record with the district within the time specified in the particular Section of this Article.

11. HEARING OFFICER SELECTION

- a. Hearing officers shall be appointed for a term of office of three years beginning on the first day of July following the appointment and ending on the thirtieth day of June three years later, except when a vacancy occurs, in which case the appointment shall be for the unexpired term of office. On or before the first day of July of the year in which a term expires, or as often as vacancies shall occur, nominations for appointment as a hearing officer shall be made in rotation by the President of the Civil Service Commission of the County of San Diego, and the President of the Civil Service Commission of the City of San Diego.
- b. No person appointed as a hearing officer may be an employee of the district at any time during his/her term of office.
- c. Upon request for appeal hearing, one hearing officer shall be assigned to hear the case. Hearing officers shall be assigned to cases on a rotating basis. If the selected hearing officer is for some reason unable to serve, the next hearing officer in rotation will be assigned the case.

12. COSTS OF HEARING

- a. The district shall provide, free of charge, a place for the hearing.
- b. The district shall provide, free of charge, the necessary clerical assistance and shall pay the necessary miscellaneous costs of the hearing.
- c. For any appeal hearing, the district agrees to release employees without loss in compensation up to a single complainant and up to two witnesses, unless otherwise mutually agreed between the parties.
- d. The district shall provide for a record of the hearing either with an electronic recording or with a court reporter.

13. ABSENCE WITHOUT PERMISSION CONSTITUTING RESIGNATION

Absence from duty without permission for five consecutive workdays shall be deemed a resignation from the district and shall be officially recorded as such. If the absent employee makes an explanation of the absence that is satisfactory to the Chief Human Resources Officer, or designee within twenty-two calendar days following the fifth workday of unauthorized absence, such employee may be restored to the position.

14. DEMOTION OF PERMANENT/PROBATIONARY EMPLOYEES

A classified employee in permanent/probationary status may be recommended by the employee's supervisor for demotion for failure to meet the standards of the position. A permanent/probationary employee recommended for demotion by the employee's supervisor shall be provided with a written notice of the recommended demotion by the Director, Classified Personnel. The notice shall state the reason for the recommendation and shall advise the employee that the employee may request a hearing with the Director, Classified Personnel to rebut the charges. A request for a meeting shall be filed with the Director, Classified Personnel within five workdays upon receipt of the notice of demotion. The employee may appeal the decision of the Director, Classified Personnel to the Chief Human Resources Officer, within three workdays of the decision of the Director, Classified Personnel. The request for the meeting with the Chief Human Resources Officer shall be made through the Director, classified Personnel. The Chief Human Resources Officer, or designee, shall hear the appeal and issue a written decision within five workdays of the meeting with the employee.

15. RELEASE OF PROBATIONARY EMPLOYEES

A probationary classified employee may be released by the Director, Classified Personnel for not meeting district standards at any time during the probationary period according to the following procedures:

- a. Notice of release from probationary status will be sent to the employee via U.S. Mail, return receipt requested, or personally delivered to the employee.
- b. The release from probationary status will be effective on the date of notification to the employee unless otherwise specified in the written notice of release.

ARTICLE VII LAYOFF AND REEMPLOYMENT

The provisions of this Article shall be applicable to all classified employees not covered by a current collective bargaining contract except confidential employees that are governed by Government Code Section 3540.1. The provisions of this Article apply to management and supervisory classified employees.

1. DECISION TO LAY OFF

Whenever it becomes necessary to reduce hours or lay off employees for lack of work or lack of funds, the procedure shall be as delineated in this Article. The decision to layoff or reduce hours is solely that of the Board of Education.

2. TIMING OF LAYOFFS AND REDUCTIONS IN HOURS

Employees to be laid off or reduced in hours shall be given written notice of layoff or reduction in hours not less than forty-five calendar days prior to the effective day of layoff or reduction in hours. For a June 30 layoff or reduction in hours, notice must be given by April 29. Nothing herein provided shall preclude a layoff or reduction in hours for lack of funds in the event of financial inability to pay salaries of employees, nor layoff or reduction in hours resulting from causes not foreseeable or preventable by the Board, without the notice required in this Section.

3. ORDER OF LAYOFF

Employees shall be laid off within classification by classification seniority date. The last appointed employee in any given classification shall be laid off first. All service in the current classification plus service in classifications of equal or higher salary grade shall count as seniority in the classification. In the event of a tie, the employee with least district seniority shall be laid off or reduced in hours. If a tie still exists, the employee with the most recent initial hire date shall be the one affected. If a tie still exists, the employees affected shall draw lots to break the tie.

4. DISPLACEMENT RIGHTS

- a. An employee in a position which has been eliminated or reduced in hours shall be placed in a vacant position in his/her classification or shall displace the least senior employee in the same classification, whichever opportunity provides the highest number of hours per day and months per work year.
- b. When the vacancy and the least senior employee's hours and work year are equal, the displaced employee shall be placed in the vacant position.
- c. If there is no vacancy or least senior employee in the same classification, an employee may displace the least senior employee in the next lower classification in which the employee has served.

5. REEMPLOYMENT

- a. Employees who are laid off or reduced in hours shall be placed on the reemployment list in order of their classification seniority, which shall be in reverse order of layoff. This reemployment list shall be used to fill a vacant position for the classification before proceeding to a promotional candidate, new employee, or transfer. An employee shall remain on the reemployment list for a period of thirty-nine months from effective date of layoff or reduction in hours. Layoff shall not be regarded as a break in service. An employee who accepts a reassignment involving loss of salary in lieu of layoff shall remain on the reemployment list for an additional twenty-four months.
- b. Substitute employees have no reemployment rights.
- c. An employee who voluntarily accepts a position in a lower salary grade, or accepts a reduction in hours shall be placed on the reemployment list in accordance with Section 5.a of this Article.

6. NOTIFICATION OF REEMPLOYMENT

- a. An employee who is laid off or reduced in hours and becomes eligible for reemployment shall be notified by certified mail (return receipt requested) addressed to the last known address on file with the Human Resource Services Division. An employee shall have five workdays from receipt of notice by certified mail to respond to the offer of reemployment.
- b. Should the notice of reemployment be undeliverable, the employee's name shall be removed from the reemployment list and it shall be presumed that the employee shall have exhausted his/her reemployment rights.
- c. An employee shall have the right to refuse up to a maximum of three offers of reemployment at the original or greater hours, at which time the employee shall be deemed to have exhausted his/her reemployment rights.
- d. If there are no other names remaining on the reemployment list, the right of an employee to refuse up to three offers of reemployment at the original or greater hours will be canceled and an offer of reemployment will be extended to the employee.
- e. Upon acceptance of reemployment, the employee shall have five workdays to report for work unless the district agrees to an extension of the reporting date. Such extension shall be solely at the discretion of the district.

7. MISCELLANEOUS PROVISIONS

- a. Employees who are laid off may apply for substitute work in any classification for which they meet the qualifications and shall be given the right of first refusal for substitute work for which they meet the minimum qualifications.
- b. Employees on the thirty-nine month reemployment list shall be eligible to apply for promotional examinations for which they can qualify.

- c. Layoff for thirty-nine months or less is not a separation from service.
- d. Employees laid off or displaced from their regularly assigned position who meet the minimum qualifications for vacant positions shall be provided an additional five point credit toward the final score in the selection procedure. Such credit will be granted only during a thirty-nine month period following the employee's layoff or displacement date and shall be discontinued upon the employee's reemployment or reinstatement to former classification.
- e. A laid-off employee who is reemployed within thirty-nine months after his/her last day of paid service shall have restored all of the rights and benefits (including previously accumulated sick leave) pertaining to employees in the class to which he/she is reemployed.
- f. Employees on layoff retain and accrue classification seniority and district seniority up to thirty-nine months of termination.

8. TEMPORARY REEMPLOYMENT

- a. Employees may be reemployed for up to ninety calendar days in the classification(s) from which they were laid off to perform work for which they were specifically assigned immediately prior to layoff. Such reemployment will be in reverse classification seniority order and shall bypass employees who have been reassigned in lieu of layoff to other monthly positions. In the event the temporary work to be completed is different or new to the district's program(s), those employees designated by the district to possess the skills necessary to perform the work will be temporarily reemployed in classification seniority.
- b. Employees temporarily reemployed shall be placed on the same salary step of the range for their classification as that held at the time of layoff and the service increment due date adjusted for each month or major fraction thereof during the period the employee was laid off.
- c. Employees who are temporarily reemployed shall earn vacation, sick leave, and holiday pay at the same rate as earned at the time of layoff.
- d. Employees on temporary reemployment shall be released at the completion of the available work or ninety calendar days, whichever comes first, and resume their status on reemployment lists.

ARTICLE VIII COMPLAINT PROCEDURE

PURPOSE This complaint procedure is intended to supplement, but not supplant, normal and usual procedures for solving personnel problems. It is intended to ensure that these Regulations are administered in a fair and consistent manner and that no classified employee is deprived of rights guaranteed by these Regulations. It is further intended to employ this complaint procedure only after other means to satisfactorily solve problems have been unproductive.

1. DEFINITION OF COMPLAINT

A “complaint” is an assertion by one or more specifically named employees governed by these Regulations that there has been a violation, misinterpretation, or misapplication of a specific provision of the Regulations which personally and adversely affects the complaining employee or employees.

The complaint shall be filed on a form provided by the district and made available by the Human Resource Services Division. The written complaint shall contain a clear and concise statement of the act or omission giving rise to the complaint. It shall also specify the date of the occurrence of such act or omission.

2. EXCLUSIONS

Some portions of these Regulations are not properly the subject of an employee complaint and, therefore, are excluded from this Article. Accordingly, the following Articles and Sections are excluded:

- Article I
- Article II
- Article III, Section 1
- Article V, Sections 1, 2, 3
- Article VI
- Article VII, Section 1

3. STEP 1 - INFORMAL RESOLUTION

- a. The complainant(s) shall attempt to resolve the issue in a collaborative and problem-solving mode with an authorized staff member of the Human Resource Services Division within twenty workdays from the date the employee learned of, or reasonably should have known of, the act or omission giving rise to the complaint.
- b. In the event the complaint remains unresolved at Step 1, the complainant may appeal the complaint to the Director, Classified Personnel or designee. This request shall be made within twenty workdays of the decision in Step 1.

4. STEP 2 - FORMAL RESOLUTION

The Director, Classified Personnel or designee shall respond to the employee's written complaint within twenty workdays from the date it is received. Upon the request of either the employee or the Director, Classified Personnel, a conference shall be scheduled during this twenty workday period.

5. STEP 3 - APPEAL HEARING

- a. In the event the complaint remains unresolved after Step 2, the employee may appeal within twenty workdays after receipt of the Director, Classified Personnel's written response to the complaint. The appeal shall be in writing and addressed to the Chief Human Resources Officer.
- b. The appeal shall set forth the grounds for the complaint: the provisions(s) of the Regulations that are alleged to be violated, misapplied, or misinterpreted; the name of the complainant's representative, if any; and the remedy sought.
- c. The Chief Human Resources Officer shall arrange for the appeal hearing.
- d. The appeal hearing shall be presided over by a hearing officer selected under procedures defined in Article VI, Section 11, of these Regulations.
- e. The hearing officer shall conduct a hearing in accordance with the following:
 - (1) The hearing shall be informal.
 - (2) No briefs shall be filed or transcripts made.
 - (3) There shall be no formal evidence rules.
 - (4) Each party's case shall be presented by a previously-designated representative.
 - (5) The hearing officer shall have the obligation of assuring that all necessary facts and considerations are brought before him/her by the representatives of the parties.
 - (6) The hearing officer shall either make an oral/bench award or issue a decision within five workdays after conclusion of the hearing. The hearing officer's decision shall be based on the records developed by the parties before and at the hearing and shall include a brief written explanation of the basis for his/her conclusion. These decisions shall not be cited as precedent in any discussion at any step of the complaint or appeal procedure. The hearing officer's decision is binding.
 - (7) The hearing officer shall have no power to alter, amend, change, add to, or subtract from any of the terms of the Regulations but shall determine only whether or not there has been a violation, misinterpretation, or misapplication of the Regulations as alleged by the complainant(s).

- (8) The hearing officer shall have the power to determine disputed interpretation of terms actually found in the Regulations to determine disputed facts upon which the application of the Regulation depends. The arbitrator may not decide any issue not submitted and may not interpret or apply the Regulation so as to change what can fairly be said to have been the intent of the parties as determined by generally accepted rules of the Regulation construction. The hearing officer shall not render any decision or award merely because, in the hearing officer's opinion, such decision or award is fair and equitable.
- (9) The decision of the hearing officer shall be based solely upon the evidence and arguments presented by the parties in the presence of each other.
- (10) No decision rendered by the hearing officer shall be retroactive beyond the beginning of the last payroll period prior to the twenty workday period for filing a complaint specified in Step 2 of this Article. The hearing officer shall have no power to render an award in any complaint that does not arise during the term of the Regulations.

6. GENERAL PROVISIONS

- a. The time allowances set forth in this Article may be extended by mutual agreement of the parties.
- b. Any complaint not appealed to the next step shall be considered settled on the basis of the answer given in the preceding step.
- c. No reprisal of any kind will be taken by or against any participant in the complaint procedure by reason of such participation.
- d. Any resolution of the complaint shall not be inconsistent with the terms of the Regulations.
- e. No party may be required to discuss any complaint if his or her representative is not present.