

**CHAPTER III  
PRELIMINARY STATEMENT**

**3.01 Statutory Authority of Rules**

- A. The Personnel Commission shall prescribe, amend, and interpret such rules as may be necessary to insure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness.
- B. The Rules shall be binding upon the County Superintendent of Schools and the Board of Education, but shall not restrict the authority of the Superintendent or the Board provided pursuant to other sections of the California Education Code.
- C. The Rules shall provide for the procedures to be followed by the County Office of Education as they pertain to the classified service regarding applications for employment, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, performance evaluations, public advertisement of examinations, rejection of unfit applicants without competition, and any other matters necessary to carry out the provisions and purposes of this rule (Education Code Section 45261).
- D. The Commission recognizes that no set of rules can contemplate all possible combinations of circumstances affecting particular cases. These rules are to be applied with consideration of their intent; however, specific, applicable provisions of the rules shall not be waived, ignored, or superseded because of the special circumstances of particular cases. The Commission is open to responsible suggestions to amend the rules with prospective application; however, no rule amendment or new rule shall be applied retroactively.
- E. The Personnel Commission recognizes that Federal regulations of the United States Department of Education pertaining to the operation of a federally-funded Head Start Program shall take precedence over its Merit System Rules.

**3.02 Printing and Distribution of Rules**

The Rules of the Commission shall be printed and made available to every department, program, school, office and other permanent work sites where classified employees report for work and shall be distributed to sites for loan to regular employees.

The Commission shall provide each new classified employee (in regular status) a handbook which summarizes the basic rules and working conditions for classified employees. The handbook will also provide information regarding access to copies of these rules and the Merit System (Education Code Section 45262).

**3.03 Adoption and Amendment of Rules**

- A. All proposals from any source to amend, delete, or add to these rules, if approved by the Commission, will be considered at the "first reading" at the meeting in which they were first presented to the Commission. Proposals to amend, delete or add rules shall not become final without a "second reading," unless a critical emergency exists (Education Code Section 45260).
- B. No rule or amendment shall be adopted by the Commission until employee representative groups for classified employees and administration of the Santa Clara County Office of Education have been given reasonable notice of the proposal (Education Code Section 45260).
- C. At the "first reading" the Commission will set a date for Commission action on the proposal, which shall not be earlier than the next regular meeting. The Commission shall also instruct the Director to refer the proposal to interested persons or organizations for comment and recommendation (Education Code Section 45260).
- D. Insofar as possible, interested parties shall submit their reactions to proposals in writing on or before the stipulated agenda deadline date and shall have the right to present reactions to the Commission orally at the appropriate Commission meeting.
- E. A special rule for adoption may be used whenever the Commission intends to replace its entire set of existing rules with a new set of rules. In such cases, the Director shall convene an ad-hoc advisory

committee, whose membership shall include managerial, represented and Commission employees and employee group representatives, to review the proposed set of rules.

The committee shall be given ample opportunity to react to the proposal, and the Director, in turn, shall consider such reactions and viewpoints when preparing the final proposal.

Each committee member shall be notified of the date and time of the meeting when the Commission is scheduled to consider the proposed set of new rules. Copies of the final proposed set of rules shall be made available to the County Superintendent of Schools, the Assistant Superintendents, Director of Human Resources, and each department, school, program office or permanent work site where classified employees report. The classified organization representing employees shall also be provided with a reasonable number of copies (Education Code Section 45262).

At the next two regularly scheduled meetings of the Personnel Commission, the Director shall present, and make available, a written summary of the most significant rule amendments, deletions and additions. The Commission shall, in open hearing, invite the public, employees and employee representative groups to express their reactions and viewpoints on specific rule(s), section(s) or chapter(s) contained in the proposal.

At the close of the hearing, the Commission may, by a roll call vote, adopt all or portions of the proposed set of rules and may amend, delete or adjust any proposed rule(s). The Commission may also refer specific rule proposals to the Director for further committee review. Adopted rules shall require no further notification or public hearing.

### **3.04 Judicial Review of Rules**

If judicial review or a change in law invalidates any portion of these rules, such findings or amendment shall not affect the validity of other rules or provisions.

### **3.05 Status of Addenda to Rules**

The classification plan, class specifications, salary schedules, administrative policies, publications and other material contained in the addendum to these rules are to be interpreted as having the same force and effect as Commission rules.

### **3.06 Application of Rules to Represented Employees**

The agreements between the County Office of Education and the exclusive representative, that have been negotiated and which are at variance with these rules, shall take precedence, if the subject matter is within the scope of representation, as defined in 3543.2 of the Government Code, and such agreements are lawful.

### **3.07 Application of Rules to Management and Confidential Employees**

- A. The Personnel Commission recognizes the power of the County Superintendent of Schools to employ, pay and otherwise control the services of persons in classified positions pursuant to the provisions of Education Code Sections 45240-45320.
- B. The Personnel Commission further recognizes that persons appointed to positions in classes designated as management, supervisory and confidential (executive secretarial), except persons appointed to positions belonging to the Commission, shall be employed to serve at the pleasure of the County Superintendent of Schools, and whenever possible, in the same manner certificated managerial employees.
- C. It is the intent of the Personnel Commission that persons appointed to classified managerial positions shall be afforded all rights, benefits and burdens prescribed in these rules in accordance with Merit System law.
- D. Notwithstanding the provisions of Sub Rules A, B and C, above, the County Superintendent of Schools/County Board of Education may adopt administrative regulations for persons appointed to classified managerial positions that may be at variance with these rules. Such regulations shall take precedence, if the subject matter does not infringe upon the rights, benefits and burdens contained herein, and the adopted regulations are lawful.