

**CHAPTER IV  
COMMISSION ORGANIZATION AND ADMINISTRATION**

**4.01 Appointment of Personnel Commission Members**

The Personnel Commission shall be composed of three members whose appointments and terms of office shall be in accordance with law and these rules. One member shall be appointed by the Board of Education and one member shall be nominated by the classified employees and appointed by the Board. These two members, shall in turn, appoint the third member after publicly announcing the name of the person they intend to appoint.

As used in this rule, "classified employees" shall mean an organization of classified employees, which represents the greatest number of classified employees in the County Office of Education as determined by the Board (Education Code Sections 45244 and 45245).

**4.02 Qualifications for Membership on Personnel Commission**

- A. To be eligible for appointment or reappointment to the Commission, a person shall (a) be a registered voter and resident within the County of Santa Clara and (b) a known adherent to the principles of the merit system. No member of the Santa Clara County Board of Education shall be eligible for appointment, reappointment, or continuance as a member of the Commission. During the term of service, a member of the Commission shall not be an employee of the County Office of Education.
- B. As used in this rule, residence is that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one residence.
- C. As used in this rule, "known adherent to the principles of the merit system," with respect to a new appointee, shall mean a person who by the nature of his/her prior public or private service has given evidence of support of the concept of employment, continuance in employment, in-service promotional opportunities, and other related matters on the basis of merit and fitness.
- D. As used in this rule, "known adherent to the principles of the merit system," with respect to a candidate for reappointment, shall mean a commissioner who has clearly demonstrated through meeting attendance and actions that he/she does, in fact, support the merit system and its operation.

**4.03 Terms of Office**

- A. By law, the term for each commissioner shall be for three years. The term of any newly appointed commissioner shall commence at noon on December 1. The term of one commissioner shall expire each year at noon on December 1.
- B. Prior to July 1 of each year, the Director shall notify the appropriate appointing authority that the term of their current appointee will expire on December 1. The Director shall request the appointing authority notify the Commission Office prior to August 30 of the name and home address of the intended appointee (Education Code 45247).

**4.04 Vacancies; Announcement of Intended Appointees; Open Hearings**

The original appointing authority shall make appointment to vacancies for any new full term or to fill unexpired term. The following procedures shall be required, pursuant to Sections 45245 and 45246, and shall be followed in the appointment and reappointment to fill vacancies on the Commission (Education Code Section 45248).

- A. Appointee of the Board of Education

When a vacancy is to occur, on December 1, for the appointee of the Board of Education, the Board shall publicly announce the name of the person it intends to appoint or reappoint by no later than September 30.

At a Board of Education meeting to be held after 30 days and within 45 days of the dates specified in the subdivision, above, the Board of Education in an open hearing shall provide the public and employees and employee representative groups the opportunity to express their views on the qualifications of the person recommended by the Board for appointment.

The Board may at that time make its appointment or may make a substitute appointment or recommendation without further notification or public hearing (Education Code Section 45246).

**B. Appointee of the Commission**

When a vacancy is to occur, on December 1, for the joint appointee of the Board of Education appointee and the classified employee's appointee, the Commission shall publicly announce the name of the person they intend to appoint or reappoint by no later than September 30.

At the next regularly scheduled meeting of the Personnel Commission to be held after 30 days from the day the intended appointee is announced, the appointee of the Board of Education and the appointee by the classified employees shall, in open hearing, provide the public, employees and employee representative groups the opportunity to express their views on the qualifications of the candidate recommended for the vacancy. The candidate shall be invited to this meeting.

The appointee of the Board of Education and the appointee by the classified employees may make their appointment or may make a substitute appointment or recommendation without further notification or public hearing.

If the Commissioner appointed by the Board of Education and the Commissioner appointed by the classified employees are unable to agree upon a nomination by September 30, the California State Superintendent of Public Instruction shall make the appointment within 30 days (Education Code Section 45246).

**C. Appointee Nominated by the Classified Employees**

When a vacancy is to occur on December 1, for the appointee nominated by the classified employees, the classified employees shall submit the name of its nominee to the Board of Education at least 30 days prior to the date on which the vacancy will occur and the Board of Education shall appoint that nominee to be effective on the date on which the vacancy would occur.

The Board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the Board shall then appoint the new nominee.

In the event a vacancy exists because of a failure of the classified employees to agree on a nominee, the Board of Education, at the request of the Director, shall declare that an emergency exists and shall make an interim appointment to fill the vacancy to insure continuance of the functions of the Commission. An interim appointee must meet eligibility requirements in accordance with law and these rules. An interim appointment in no event shall be valid for more than 60 days (Education Code Sections 45246 and 45248).

**4.05 Discharge of Duties until Successor Appointed**

A Commissioner whose term has expired may continue to discharge the duties of the office until a successor is appointed, but for no more than 90 calendar days (Education Code Section 45246).

**4.06 Commission Officers**

At its first meeting following December 1 of each year, the Commission shall elect one of its members as President and another member as Vice President for a term of one year or until their successors are duly elected. The President may serve for more than one year.

The President shall be the presiding officer at regular and special meetings of the Commission. In the absence of the President, the Vice-President shall preside.

**4.07 Compensation of Commission Members**

Each commissioner shall receive the sum of \$25.00 for each meeting attended in any one month, including regular, adjourned, or special meetings, but not to exceed a total of \$100 a month.

The Board of Education may authorize payment to members of the Commission in an amount not to exceed fifty dollars (\$50) per meeting and not to exceed two hundred fifty dollars (\$250) per month (Education Code Section 45250).

#### **4.08 Quorum and Majority**

Any two members of the Commission shall constitute a quorum for any of its regular or special meetings. A quorum of the Commission may perform any act authorized or required by law; however, an affirmative vote of two members shall be required to make any motion of the Commission effective (Education Code 45247).

#### **4.09 Open Public Meetings**

- A. All regular and special meetings of the Commission shall be open and public, and all persons shall be permitted to attend any meetings except as provided in Rule 4.14. This rule shall not be construed as permitting employees to be absent from duty to attend Personnel Commission meetings without proper authorization (Government Code 54953 (a)).
- B. Individual employees, employee organizations, and other interested persons may submit their written views on any matter before the Commission and shall be provided with reasonable opportunity to present their views orally. The Commission shall consider their comments and recommendations prior to arriving at a course of action.

#### **4.10 Agenda and Supporting Data**

- A. Agenda items for the next succeeding regular Personnel Commission meeting must be received by the Director with a letter of transmittal attached at least fourteen (14) days prior to the date of the regularly scheduled meeting. The Director shall prepare an agenda for each meeting of the Commission.
- B. At least 72 hours prior to every regular Commission meeting, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in executive session. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. One copy shall be sent to each location to be posted and shall be available to individuals on request (Government Code 54954.2).

#### **4.11 Official Minutes**

- A. The Director shall act as the secretary of the Commission and shall record in the minutes the time and place of each meeting, the names of the Commissioners present, the official acts of the Commission and the votes of the Commissioners.
- B. When requested by him/her, a Commissioner's dissent or approval and reasons shall be recorded. The minutes shall be written and presented for correction and approval at the next regular meeting. The minutes or a true copy thereof shall be open to public inspection. Copies of the official minutes shall be distributed to employee organization representatives who have requested them (Government Code Section 54957.5).

#### **4.12 Regular Meetings**

- A. Subject to cancellation or proper change, the Commission shall meet monthly at the Santa Clara County Office of Education. When the regular meeting date falls on a holiday, the Commission shall meet on the next succeeding business day, unless at a prior meeting it designates some other day for its meeting. The Commission may meet at some other time or place different from that indicated above provided that the different time and place are noted in the agenda posted in a location freely accessible to members of the public 72 hours before a regular meeting.
- B. The Commission may adjourn any regular or adjourned meeting to a time and place specified in the order of adjournment. When so adjourned, the adjourned meeting is a regular meeting for all purposes. When an order of adjournment of a regular or adjourned meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the time designated for regular meetings.

#### **4.13 Special Meetings**

- A. A special meeting may be called at any time by the President of the Personnel Commission or by a majority of the members of the Commission, by delivering written notice to each member of the Commission and to major local newspapers of general circulation, radio or television stations, and employee organizations or other groups requesting notice in writing. The notice shall be delivered personally or by other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at this meeting.
- B. The written notice may be dispensed to any member of the Commission who at or prior to the time the meeting convenes files with the Director (Secretary) a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed to any member of the Commission who is actually present at the meeting at the time it convenes.
- C. The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public (Government Code Section 54956).
- D. In the case of an emergency involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, the Commission may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Government Code Section 54956 or both of the notice and posting requirements. Closed sessions are prohibited during any emergency meeting (Government Code Section 54956.5).

#### **4.14 Closed Sessions**

- A. Nothing contained in these rules shall be construed to prevent the Commission from holding closed sessions during a regular or special meeting to consider appointment, employment or evaluation of performance of its Director, or dismissal of any employee or to hear complaints or charges brought against a member of its own staff by another person or employees, unless the staff member(s) requests a public hearing.
- B. The Commission shall not consider any matter in closed session relating to an employee unless the employee has been notified of their right to a public hearing and has declined the public hearing or properly failed to request the same.
- C. The Commission may hold closed sessions to consider administrative matters relative to its Director or Commission employees and to consider examination materials as provided in these rules (Government Code Section 54957).
- D. The Commission shall publicly report any action taken in closed session and the vote for abstention of every member present thereon in accordance with Government Code Section 54957.1.

#### **4.15 Personnel Commission Staff**

- A. The Personnel Commission shall appoint all employees paid from funds budgeted for the support of the Commission and shall supervise the activities of those employees that are performed as part of the functions of the Commission. Such employees shall be appointed by the Commission from eligibility lists established from competitive examinations given under the auspices of the Commission.
- B. The Commission's staff shall be classified employees of the County Office of Education and be afforded all the rights, benefits, and burdens of any other classified employee serving in the regular service of the County Office of Education (unless otherwise specified by the Commission or these rules), including representation by the appropriate exclusive representative, if any (Education Code Section 45264).

#### **4.16 Director of Classified Personnel Services**

The Personnel Commission shall appoint a Director of Classified Personnel Services and shall authorize him/her to perform all duties of the Director. The Director of Classified Personnel Services shall:

- A. Act as Secretary of the Personnel Commission and shall issue and receive all notifications on its behalf.
- B. Carry out all procedures in the administration of classified personnel in conformity imposed with law and these rules.
- C. Designate, direct and supervise managerial, technical, specialists and clerical assistants in performing the duties of the position.
- D. Be free of prejudgment or bias to ensure the impartiality of the Personnel Commission.

- E. Certify that all classified employees are employed, assigned and paid pursuant to the Education Code and the Personnel Commission Rules.
- F. Conduct administrative transactions consistent with the law and necessary to the proper functioning of the Personnel Commission Office and its staff (Education Code Section 45266).
- G. Administer and maintain the classification plan and recommend rates of pay for each classification of position. He/she shall conduct classification, salary and rule studies and shall make such other investigations as directed by the Commission or as he/she deems necessary to his/her responsibilities.
- H. Prepare, or cause to be prepared, an annual report outlining the services and activities during the preceding fiscal year as they relate to administration of classified personnel (see Rule 4.22).
- I. Determine procedural matters in absence of an approved rule, or when two or more rules appear to be in conflict, or when no rule provides a clear-cut answer to a problem. Such determinations are subject to appeal to the Commission.
- J. Review recommendations to be presented to the County Superintendent of Schools which concern employees and positions in the classified service and insure compliance with the Commission's rules and procedures. Recommendations not in compliance shall be immediately brought to the attention of the Assistant Superintendent, Human Resources for correction. In prescribing the procedures in this rule, it is the intent of the Personnel Commission that their Director be advised of and included in the County Office's classified personnel processes.

#### **4.17 Expenditure of Funds for Commission Staff Training**

The Commission may, with respect to the Director and other Commission staff, expend funds for their orientation, training, retraining and development and for any purpose prescribed by Article 9 commencing with Section 45380 of the Education Code (Education Code Section 45255).

#### **4.18 Non-Permanent Commission Employees and Positions**

- A. The Director, with the concurrence of the Commission, may, to prevent the interruption or stoppage of work performed as part of the functions of the Commission, appoint persons to positions, the duration of which shall not exceed six months, or in case of an appointment in lieu of absent Commission employee, is not to exceed the authorized absence of said employee. Eligibles shall be certified in accordance with their position on the appropriate employment list and their willingness to accept such position in a non-permanent status.
- B. A vacancy in the position of Director shall cause the President to notify the County Superintendent of Schools and call a closed session of the Commission. The Commission shall provisionally appoint an interim Director (Education Code Section 45264).

#### **4.19 Official Communications**

- A. Communications to the Personnel Commission or any of its members shall be, insofar as possible, made in writing and forwarded to the Director who shall serve as its secretary.
- B. The Director shall acknowledge, reply or cause for the distribution of communications, citing appropriate rule(s) or indicating official Commission action, whenever appropriate.
- C. Individuals or groups who wish to present proposals for action by the Commission shall be encouraged to present them to the Director for placement on the Commission agenda at least 14 days in advance. It is against the policy of the Commission to consider proposals except at open meetings, although the Commission may designate one of its members or the Director to investigate a specific subject.

#### **4.20 Budget of the Personnel Commission**

- A. The Director shall prepare and submit to the Commission a proposed operating budget for Classified Personnel Services for the next ensuing fiscal year. The budget shall be prepared for a public hearing, to be held by the Commission, not later than May 30 of each year, or at a date agreed upon between the Board of Education and the Personnel Commission to coincide with the process of adoption of the budget of the County Office of Education.
- B. The Director shall forward a copy of the Commission's proposed budget to the Board of Education indicating the time, date, and place for the public hearing and shall invite board members and administration to attend and present their views.

- C. The Commission shall fully consider the views of the Board prior to approval of its proposed budget.
- D. The Director shall forward the approved budget to the County Superintendent of Schools for action in accordance with Education Code 45253.
- E. If the County Superintendent of Schools proposes to reject the budget as submitted by the Personnel Commission, he/she shall contract with the Office of Administrative Hearings of the State of California for an administrative law judge to conduct a public hearing on the proposed rejection. The administrative law judge shall render findings and any proposed amendments, if any, to the proposed budget. The Commission may accept or reject the findings and proposed amendments. If the Personnel Commission rejects the findings and proposed amendments, if any, of the administrative law judge, the budget of the preceding year shall determine the amount of the new budget, and the items of expenditure shall be determined by the Commission (Education Code Section 45253).

#### **4.21 Legal Counsel for the Commission**

The legal counsel for the Board of Education shall also aid and represent the Personnel Commission in all legal matters. If such counsel refuses due to a possible conflict of interest or other reasons, the Commission may employ its own counsel and the reasonable cost; thereof, shall constitute legal charge against the County Office general funds (Education Code Section 45313).

#### **4.22 Annual Report of the Commission**

The Director shall prepare an annual report of Commission activities. When approved by the Commission, the annual report shall be submitted to Administration. The report shall be prepared for Commission approval as soon after each fiscal year as possible and no later than a meeting in November. The report shall be comprised of Commission activities for the preceding fiscal year (Education Code Section 45266).

#### **4.23 Office Accommodations for the Commission**

The County Office of Education shall provide the Personnel Commission and its staff with suitable office accommodations. The Personnel Commission Office shall be known as "Classified Personnel Services," and shall perform those functions and activities within the jurisdiction of the Commission (Education Code Section 45252).

- A. Separations of any and all employees, together with the reasons thereof.
- B. Promotions, demotions, reclassifications, reinstatements, transfers of employees and other changes of status.
- C. Leaves of absence (paid and unpaid).
- D. Disciplinary actions, together with the reasons, thereof.
- E. Refusal or failure of certified candidates to accept employment.
- F. Other matters of personnel as the Commission may direct.