

**CHAPTER V
THE CLASSIFIED SERVICE**

5.01 Positions Not Requiring Certification Qualifications

- A. Persons employed by the Santa Clara County Office of Education in positions not requiring certification qualifications are classified employees. Such employees and positions shall be known as the classified service, except those which are exempt by law and these rules.
- B. Notwithstanding the provisions of Sub Rule A, above, the classified service shall also include the specific positions prescribed in the following rules:
 - Rule 5.02: Commission Staff Positions
 - Rule 5.03: Senior Management Positions
 - Rule 5.04: Restricted Positions
 - Rule 5.05: Executive Secretarial Positions
 - Rule 5.06: Staff Assistant Positions
- C. Every position not defined by this rule as a position requiring certification qualifications and not specifically exempted from the classified service according to the provisions of Education Code Section 45105 or 45256 shall be classified as required by those sections and shall be part of the classified service. Such positions may not be designated as certificated nor shall the assignment of a title to any such position remove the position from the classified service, nor shall possession of a certification document be made a requirement for employment in any such position.
- D. Nothing in this rule shall be construed to prohibit the employment of any individual in a position described by this rule as part of the classified service who is in possession of certification qualifications, nor shall the possession of certification qualifications be grounds for the elimination of an individual for consideration for employment in such a position (Education Code Section 45104).

5.02 Commission Staff Positions

Persons appointed to positions belonging to the staff of the Personnel Commission shall be part of the classified service of the County Office of Education. The Director and other Commission employees shall be afforded all the rights, benefits, and burdens of any other classified employees 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).

5.03 Senior Management Positions

The County Superintendent of Schools, with the concurrence of the County Board of Education, may designate certain positions as senior management of the classified service.

Senior management positions shall be the highest management positions that have responsibility for formulating policies or for the administration of a principle program, as determined by the County Superintendent of Schools (Education Code Section 45108.5).

Employees whose positions are designated as senior management positions shall be part of the classified service and shall be afforded all rights, benefits and burdens of other classified employees, except that they shall be exempt from all provisions relating to permanent status in that senior management position (Education Code Section 45256.5).

Positions created as senior management as well as existing positions changed to senior management in the classified service shall be subject to approval by the Personnel Commission.

5.04 Restricted Positions

- A. Positions created under various acts including, but not limited to, the Manpower Development and Training Act of 1962, the Elementary and Secondary Education Act of 1965 or any subsequent federal

or state legislative enactment, or any other special funding, and which are not part of regular programs of the County Office, shall be part of the classified service as established by Education Code Section 45256.

- B. Persons employed in specially funded positions including persons appointed through criteria that precludes normal competitive processes or restricts the privilege of all citizens to compete, shall be classified employees for all purposes except the following: 1) they may not attain permanent status, 2) they shall not be accorded seniority rights, 3) they may not be given provisional appointments concurrent with status in a restricted position, and 4) they are not eligible to compete in promotional examinations in the regular classified service (Education Code 45259).
- C. Notwithstanding Sub Rule B, above, at any time, after completion of six (6) months or 130 days of satisfactory service, whichever is longer, a person serving in a restricted position shall be given the opportunity to take such qualifying examination as are required for all other persons serving in the same restricted class. If such person successfully completes the examination, regardless of numerical standing on the eligibility list, he/she shall be afforded all rights, benefits and burdens of any other classified employee serving in the restricted classified service. His/her service as a regular classified employee including permanent status and seniority credit, shall be counted from the original date of employment in the restricted position, provided he/she continues to serve in the same restricted class (Education Code Section 45105).
- D. Early Head Start or Head Start positions created under the Economic Opportunity Act of 1964, the Head Start Act of 1981, or any subsequent federal legislative enactment, or special funding shall be part of the classified service. When such positions are paid, at least fifty-one percent (51%), from funds budgeted for the Early Head Start or Head Start Program, they shall be allocated to classes titled as "Restricted" (Education Code Sections 45105, 45108 and 45259).
- E. Persons employed in restricted positions for the Head Start Program shall be classified employees and shall enjoy all the rights, benefits and burdens accorded to other classified employees. Their selection shall be made on the same basis as that of persons selected for positions that are part of the regular programs of the county office; except that appointments made to restricted positions shall require the approval of the Head Start Policy Council (45CFR 1304.50(d)(1)(x)(xi) and Education Code Section 45105).
- F. It is the intent of the Personnel Commission to effectively implement restricted programs intended to provide job opportunities to current and former parents of the Head Start Program but do so in a manner that will not be disruptive nor detrimental to persons employed in the regular classified service or to its normal employment processes for the classified service (Education Code Section 45105).

5.05 Executive Secretarial Positions

- A. Upon the request of the County Superintendent of Schools, the Commission may exempt one or more executive secretarial positions from requirements relating to promotional competitive examinations and certification. Exemptions authorized under this rule shall be limited to executive secretarial positions directly reporting to the County Superintendent of Schools or assistant superintendents.
- B. Any person employed in an exempt executive secretarial position shall be afforded all the rights, benefits and burdens of any other classified employee serving in the regular service of the County Office of Education. Executive secretarial positions shall be filled from an unranked list of eligible persons who have been found to be qualified for the position specified by the County Superintendent of Schools and determined by the Personnel Commission.
- C. Any person whose services in an executive secretarial position are discontinued for a cause other than a cause for disciplinary action specified in Education Code or in Rule 13.05 shall have the right to return to a position in a class he/she previously occupied or, if that class no longer exists, in a similar class, as determined by the Director (Education Code Section 45272).

5.06 Staff Assistant Positions

- A. If the County Superintendent of Schools employs staff assistants or field representatives to directly assist members of the Board of Education or individual board members in carrying out their policy making duties, such assistants or representatives shall be part of the classified service, except that such assistants and representatives shall be exempt from all provisions of this code pertaining to permanent status in any position of the County Office of Education, and procedures pertaining to recruitment, appointment, classification and salary of members in the classified service.
- B. Staff assistants shall serve at the pleasure of a majority of the Board of Education, and each field representative appointed by the Board of Education, to assist an individual member, shall serve at the pleasure of such member.
- C. It is the intent of the Legislature that persons employed under this Rule will not be utilized for election campaigns of Board Members during hours of their employment (Education Code Section 45112).

5.07 Exemption of Certain Employees and Positions

Pursuant to Education Code Section 45256, the following positions and persons shall be exempt from the classified service:

- A. Positions which require certification qualifications.
- B. Full-time students employed part-time.
- C. Part-time students employed part-time in any college work-study program, or in a work experience education program conducted by a community college pursuant to Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 and which is financed by the state or federal funds.
- D. Apprentice positions.
- E. Positions established for the employment of professional experts on a temporary basis for a specific project by the County Superintendent of Schools or by the Commission when so designated by the Commission (refer to Rule 10.15).
- F. Part-time playground positions, where the employee is not otherwise employed in a classified position. Part-time playground positions shall be considered part of the classified service when the employee in the position also works in the same school district in a classified position.

No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exemptions established in the law shall be employed outside the classified service.

Employment of either full-time or part-time students in any college work study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts of services.

A part-time position for the purpose of this rule is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis is less than 87 1/2 percent of the normally assigned time of the majority of employees in the classified service.

Any position or employee lawfully exempted from the classified service shall be excluded from the benefits and burdens imposed by law or these rules.

5.08 Exemption of Professional Expert Positions

Positions established by the County Superintendent of Schools or by the Commission, when so designated by the Commission, for the temporary employment of professional experts for specific projects, presenters or trainers shall be exempt from the classified service (Education Code Section 45256(b)(6)).

5.09 Exemption of Community Representatives

Positions established for the employment of community representatives in advisory or consultant capacities for not more than 90 working days or a total of 720 hours in a fiscal year shall be exempt from the classified service (Education Code Section 45258).