

CHAPTER XVI MISCELLANEOUS PROVISIONS

16.01 Conflict Resolution

A. Purpose

The Personnel Commission recognizes the importance of affording all classified employees with an expeditious and effective manner to resolve conflicts or problems that may periodically arise during their employment with the Santa Clara County Office of Education. As such, managerial employees should seek remedy through the process prescribed, herein. Represented employees should seek redress of their grievances through the appropriate collective bargaining unit agreement.

B. Definition

For the purpose of this rule, a "conflict" shall be defined as difference of opinion between a managerial employee and his/her immediate supervisor regarding the interpretation or application of a policy, rule, or regulation of the Santa Clara County Office of Education.

C. Matters Excluded from the Conflict Procedure

The following matters are excluded from the conflict procedure unless laws, regulations, rules or policy have been violated:

1. Accusatory charges relating to the moral or professional fitness of another managerial employee.
2. Complaints about the subject matter of a policy or administrative procedure, rather than the administration of the policy, or procedure. A managerial employee with such a complaint should direct his/her suggestions for change through administrative channels to the appropriate body or official who established it.
3. Written charges recommending suspension, demotion, or dismissal.
4. The function of a department, program or school, school or department organization, assignment of personnel, work hours, workweek, benefits, promotion, and performance evaluations.
5. Complaints or concerns about subject matter contained in these rules of the Personnel Commission. A managerial employee with such a complaint should express his/her concerns in accordance with Rule 16.02.

D. Informal Step

Within ten (10) work days of the time a managerial employee know or reasonably should have known of the conflict, the employee will meet and discuss the conflict with his/her immediate supervisor.

E. Step I

1. Within five (5) workdays of meeting with the immediate supervisor, if the conflict is not resolved, the employee shall state in writing the specific conflict, sign it, and submit it to the immediate supervisor.
2. The Statement of Conflict shall name the employee involved, shall state the contention of the employee, and shall describe the relief requested.
3. Within five (5) workdays, after receipt of the Conflict Statement, the immediate supervisor shall respond in writing to the employee.

F. Step II

1. If the conflict is not resolved in Step I, the managerial employee may, within ten (10) workdays of receipt of the supervisor's response at Step I, submit to the appropriate assistant superintendent or branch head, a written Statement of Conflict signed by the employee. At that time, a copy shall be submitted to the immediate supervisor involved.
2. The assistant superintendent (or branch head) shall give the employee a response in writing no later than ten (10) workdays after receipt of the written Statement of Conflict. If further investigation is needed, additional time may be allowed by mutual agreement of the assistant superintendent (or branch head) and the employee.

3. The decision of the assistant superintendent (branch head) shall be final. If the assistant superintendent's decision contains a recommendation of financial award or results in any financial impact to the County Office of Education, the decision shall be advisory only and forwarded to the County Superintendent of Schools for approval.

16.02 Complaint Regarding Personnel Commission Rules

- A. Any person who believes that the provisions of these rules have been violated, misinterpreted, or misapplied may notify the Director in writing of the alleged violation, misinterpretation, or misapplication. The Director shall respond in writing within ten (10) workdays of the receipt of complaint. The response shall include a proposed solution to the complaint.
- B. If the person filing the complaint is not satisfied with the resolution proposed by the Director, he/she may request that the complaint be placed on the agenda for the next regular meeting of the Commission for its consideration. Depending on the subject matter, the Commission may hear the complaint in "executive session." The decision and any subsequent action deemed appropriate by the Commission shall be final.

16.03 Nepotism

This rule is intended to establish a minimum exclusion regarding supervisor/subordinate relationships. The Personnel Commission recognizes that the Board of Education may adopt more restrictive regulations and that the County Superintendent of Schools may alter specific supervisor/subordinate relationships as needed to assure the orderly conduct of business.

- A. All appointing authorities with responsibilities that include the assignment of employees shall avoid assignment of close relatives or cohabitants to work in positions or situations where conflicts of interest could arise.
- B. No appointing authority shall employ or participate in the employment process of an employee he/she is closely related to or cohabiting with.
- C. No appointing authority shall assign an employee he/she is closely related to or cohabiting within a subordinate position or to a position that is supervised by a subordinate manager or supervisor.
- D. For the purpose of this rule, "employees" shall be defined as members of the classified service in regular, limited-term or provisional status as well as persons employed outside the classified service as professional experts, community representatives or student worker. "Close relative" is defined as spouse, domestic partner, brother, brother-in-law, sister, sister-in-law, parent, parent-in-law, child or grandchild of the employee, and of the spouse or domestic partner of the employee. "Domestic Partner" is defined as an adult person who lives with and has an exclusive committed relationship with an employee.

16.04 Political Activity

A. Political Activity Freedom

Every classified employee may, during off-duty hours, participate in any political activity not specifically prohibited by relevant provisions of the Education Code.

B. Causes for Disciplinary Action

A classified employee may be disciplined for engaging in political activity that involves:

1. The use of any County Office property, equipment, or facility for any political purpose unless law thereof authorizes the use for such purposes and the employee has obtained prior required approval.
2. The use of any County Office property, equipment, or facility for any political purpose or the performance of any political act during regular hours of duty.
3. Active campaigning on behalf of any candidate, including himself/herself, for public office whether by speaking, soliciting funds or support, distributing handbills, or otherwise, during his/her assigned hours of employment.
4. Attempting to gain any advancement or privilege through political activity prohibited by law or County Office rules.

C. Personal Candidacy

Any employee may be a candidate for any political office for which he/she may file without suffering any loss of employment status in the County Office of Education unless he/she violates the provisions of Cause for Disciplinary Action.

D. Leave of Absence

An employee who files for a political office may request and shall be granted an unpaid leave of absence which shall commence not earlier than one month prior to the concerned election and continue until the election processes have been completed insofar as his/her candidacy is concerned. Such leave is required if the employee is a candidate for election to the Board of Education.

E. Election to a Political Office

An employee who is elected or appointed to the Board of Education must resign his/her position with the County Office of Education in conformance with Education Code Sections 1006 and 35107.

F. Intent

It is the Personnel Commission's intent and purpose in enacting these rules to allow employees their lawful privilege of political freedom and activity, but to insure that political activities are not engaged in during normal duty hours and normal duty assignments. The County Office of Education has a reasonable obligation to make certain that personnel are aware of their political rights and may exercise those rights but at the same time to insure that its employees do not wrongfully use their duty hours or County Office facilities for political purposes.

16.05 Wearing of Uniforms or Identification Badges

The County Superintendent of Schools may require the wearing of a distinctive uniform or employee identification badges by members of the classified service. The cost of the purchase, lease or rental of any uniforms, equipment, identification badges, emblems, and business cards shall be borne by the County Office (Education Code Section 45138).

16.06 Physical Examinations

A. Initial Employment

1. Every person being initially employed by the County Office of Education, whether in a regular position, as a substitute, relief, limited-term, provisional or other type of employee, shall comply with the provisions of Education Code Section 49406 (Examination for tuberculosis).
2. Prior to employment, each person shall submit a written certification from the examining physician that he/she was found free from active tuberculosis. The examination must have been conducted within a 60-day period, preceding the date of employment.

B. After Employment

1. Every employee shall undergo an examination to determine that he/she is free from active tuberculosis at least once every four years after employment and shall submit written certification from the examining physician.
2. Human Resources shall maintain records of the results of skin tests, x-ray examinations, and related matters.
3. When the examination is conducted at a clinic sponsored by the County Office of Education, the cost of such examination shall be borne by the County Office of Education.

C. Positive Skin Tests

A positive intra-dermal tuberculin test shall be followed by an x-ray of the lungs taken by a competent and qualified x-ray technician and interpreted by a licensed physician and surgeon. Appropriate medical personnel shall determine the need for follow-up care.

D. Transferring School Employees

1. A person transferring employment from another school district or county office to the Santa Clara County Office of Education shall be deemed to meet the requirements of Education Code Section 49406 if the person can produce a certificate showing that he/she was examined within the past four years and was found to be free of communicable tuberculosis.
2. A person transferring employment from a private or parochial school to the Santa Clara County Office of Education shall be deemed to meet the requirements of Education Code Section 49406 if

that person can produce a certificate as provided for in Section 121525 of the Health and Safety Code showing he/she was examined within the past four years and was found to be free of communicable tuberculosis.

E. Drug Testing

Persons to whom a conditional offer of employment has been made, including all candidates for employment in safety-sensitive positions or positions requiring a school bus driver's certificate or commercial driver's license shall be subject to testing for illegal drugs in accordance with current County Office Procedures and Policies and a collective bargaining agreement. Employees in positions requiring a school bus driver's certificate or commercial driver's license shall also be subject to the random and post-accident drug tests set forth in County Office Procedures and Policies and a collective bargaining agreement.

16.07 Reimbursement of Expenses for Employment Candidate

When an employment candidate is requested by the County Office of Education to travel to its headquarters, school site or program office for the purpose of being interviewed or examined prior to or for employment, the County Office of Education may reimburse such candidate for expenses necessarily incurred in traveling from his/her place of residence to the place of interview or examination (Education Code Section 44016).

16.08 Fingerprinting of Prospective Classified Employees

- A. Each person to be employed in any regular classified position or provisional, substitute or limited term classified assignment shall be required to submit legible rolled and flat impressions of the prospective employee's fingerprints and personal description data to the State Department of Justice.
- B. No person shall be employed in a classified position until it is determined from any arrest and conviction information provided by the State Department of Justice that the person is eligible for employment.
- C. No person shall be employed or retained in employment by the County Office of Education who has been convicted of a sex offense as defined in Education Code Section 44010 (Education Code Section 45123).
- D. No person shall be employed or retained in employment by the County Office of Education who has been convicted of possession or sale of a controlled substance or offense as defined in Education Code Section 440100 (Education Code Section 45123).
- E. No person shall be employed or retained in employment by the County Office of Education who has been determined to be a sexual psychopath under the provisions of Article I (commencing with Section 6300), Chapter 2, Part 2, Division 6, of the Welfare and Institutions Code or under similar provisions of law of any other state (Education Code Section 45124)
- F. No person shall be employed or retained in employment by the County Office of Education who has been convicted of a serious and violent felony.
- G. All criminal record reports shall remain confidential. Any employee having responsibility for receiving, transmitting, and/or reviewing such reports, who divulges information contained therein to an unauthorized person is subject to disciplinary action in accordance with the law and these rules.
- H. A restored, reinstated or returning employee with a break in service exceeding six (six) months shall be fingerprinted prior to reemployment in the same manner as if he/she were a candidate for initial employment (Education Code Sections 45125, 45125.1 and 45125.5).

16.09 Volunteers

- A. Notwithstanding any other law, any person, except a person required to register as a sex offender pursuant to Section 290 of the Penal Code, may be permitted by the County Office of Education to serve as a non-teaching volunteer under the supervision and direction of the certificated personnel to perform non-instructional work which serves to assist the certificated personnel in the performance of teaching and administrative responsibilities.
- B. The non-teaching volunteer shall not be an employee of the County Office and shall serve without compensation of any type or other benefits accorded to classified employees, except as provided in Section 3364.5 of the Labor Code.
- C. The County Office of Education shall not abolish any classified position and utilize a volunteer, as authorized by this rule, in lieu of an employee who is laid off as a result of the elimination of his/her

position or a reduction in workforce. The County Office shall not refuse to employ a person in a classified position and use volunteers in lieu of filling such position.

- D. The County Office of Education shall request a criminal records check from the State Department of Justice of any prospective non-teaching volunteer in order to ascertain whether the prospective non-teaching volunteer has been convicted of any sex offense as defined in Education Code Section 44010. No prospective volunteer shall be assigned to a school or program where school age children are present until it is determined from any arrest and conviction information provided by the State Department of Justice that the prospective volunteer has not been convicted of a sex offense as determined by law (Education Code Sections 35021 and 35021.1).

16.10 Classified School Employee Week

- A. The third full week in May shall be designated, in accordance with law, as Classified School Employee Week.
- B. Each year, the County Office of Education shall annually observe that week in recognition of classified school employees and the contributions they make to schools, children and the educational community. The observance shall be integrated into the school programs of the County Office of Education (Education Code Section 45460).