Manhattan Beach Unified School District
Personnel Commission
Rules and Regulations

PERSONNEL COMMISSION – MERIT SYSTEM

RULES & REGULATIONS
OF THE CLASSIFIED SERVICE

Not governed by the MBUSD/CSEA Master Agreement

Revised and Approved February 4, 2014

S C O P E

PERSONNEL COMMISSIONS AND THE MERIT SYSTEM

A Personnel Commission is a nonpartisan public body responsible for the administration of a "merit system" for the selection, retention, and promotion of classified employees in a public school district.

Responsibility:
Commissions have a threefold responsibility: (1) to cooperate with the governing board and administrators in the quest for competent employees and good personnel administration; (2) to represent the interests of the general public by providing a personnel system dedicated to hiring and keeping good workers in the service of the jurisdiction; and (3) to see that classified employees receive fair and equitable treatment.

Functions:

Maintaining a classification plan which groups positions into classes on the basis of duties and responsibilities assigned by the governing board.
Ed. Code §§45268-88088

Recommending salary schedules to the governing board.
Ed. Code §§45268-88088

Establishing rules for the examination of candidates for positions and ensuring the application of a merit system appointment procedure.
Ed. Code §§45273-45278 and §§88092-88097

Formulating rules and regulations to ensure the efficiency of the classified service and the implementation of merit system principles.
Ed. Code §§45261-88081

Establishing procedures for performance ratings.
Ed. Code §§45261-88081

Investigating and hearing appeals of disciplinary actions.
Ed. Code §§45306-88068

Preparing an annual budget for its own office.
Ed. Code §§45253-88053

A Merit System is a system of public employment with the following characteristics: (a) hiring and promotion based on objectively tested fitness and (b) protection against discipline and dismissal for reasons other than performance, unacceptable or unlawful conduct.

ARTICLE I

DEFINITION OF TERMS

Rule 1.01 Words and phrases occurring in these Rules shall have the following meanings:

ACT - The Act applying the Merit System to classified employees in certain school districts. According to Sections §§45240-45318, inclusive, Title 2, Division 3, Part 25, Chapter 5.

ANNIVERSARY DATE – The first day of probationary status. Seniority, longevity and earned salary increments are determined by the anniversary date.

APPEAL – A request for review by an employee relative to an administrative decision detrimental to the employee.

APPLICANT – A person making application to the District for the purposes of taking an open or promotional examination for employment in a given classification.

APPOINTING POWER –The Board of Trustees of the Manhattan Beach Unified School District is the appointing power for assignments to positions in the classified service.

ASSIGNMENT BASIS – The portion of the year and day for which the employment is authorized for a specific position or classification.

BOARD – The Board of Trustees of the Manhattan Beach Unified School District.

BUMPING RIGHTS – The right of an employee, under certain conditions, to displace another employee with less seniority in the class.

CANDIDATE – A person who has participated or competed in one or more portions of the District's selection process.

CAUSE – Those specific activities, behaviors, or events which are listed within these Rules as being subject to disciplinary action.

CLASS – A group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be assigned by the Personnel Commission to designate each position allocated to the group.

CLASSIFICATION – The action of the Personnel Commission in placing a position into a "Class".

CLASSIFIED SERVICE – All employees and positions within the jurisdiction of the governing board or of the Commission, except those exempt from classified service. The following employees are exempt: (1) Positions requiring certification qualifications; (2) Full-time students employed part-time; (3) Part-time students employed part-time in any college work study program, or in a work experience education program conducted by a community college district and that is financed by state or federal funds; (4) Apprentice positions; (5) Positions established for the employment of professional experts on a temporary basis for a specific project by the Board or Commission when so designated by the Commission; (6) Part-time playground positions, where the employee is not otherwise employed in a classified position.

COMMISSION – The Personnel Commission for the District as created by the Act as defined above.

CONFIDENTIAL EMPLOYEE – Any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions. [Govt.Code §3540.1(c)]
DECLARATION –

A. **Formal Statement:** A formal document giving explicit details such as the terms of a business agreement or plan, or information on goods or assets for tax purposes.

B. **Official Proclamation:** An emphatic formal public statement, especially by a government or public body.

C. **Making of Declaration:** The process or act of declaring something in an official or public way.

D. **Synonyms**: Statement, announcement, assertion, speech, pronouncement, avowal, affirmation, testimony, and deposition.

DEMOTION – The change in assignment of a classified employee from one (1) class to a position in a class with a lower salary range.

DISMISSAL – The permanent involuntary separation, for cause, of an employee from employment with the District by order of the Board and in accordance with the Rules and Regulations of the Personnel Commission.

DISTRICT – The Manhattan Beach Unified School District.

ELIGIBILITY LIST – An eligibility list is a listing of successful applicants based on qualifying through one of the District's competitive examination processes for certification and appointment to a particular classification. Final scores of examinees shall be rounded to the nearest whole percent and examinees with the same score shall

be placed in the same rank on the eligibility list. If there are less than three (3) ranks, the Personnel Director may schedule a new examination. [Ed. Code § 45272]

EMERGENCY EMPLOYMENT – An appointment made in an emergency, not to exceed fifteen (15) working days to prevent the stoppage of public business where an eligibility list is not available. The Commission authorizes the Superintendent or designee to make such appointments, subject to ratification by the Commission.

HIRE DATE – The first day of probationary status.

LIMITED TERM EMPLOYEE – A person employed from an appropriate eligibility list for a position that is not to exceed six (6) months, or employed during the authorized absence of a permanent employee.

MERGING – The act of combining two (2) or more eligibility lists, which were established not more than a year apart, in the rank order of the scores of the eligible candidates.

MERIT SYSTEM – A system of public employment with the following characteristics: (1) hiring and promotion based on objectively tested fitness and (2) protection against discipline and dismissal for reasons other than performance or morality.

OPEN EXAMINATION – A competitive examination which is open to all persons, including District employees, who meet the specified qualifications and comply with the application procedures established by the Commission.

PART-TIME EMPLOYEE – A position in which assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 87.5 percent of the normally assigned time of the majority of the employees in the classified service.[Ed. Code §45256(e)]

PERSONNEL DIRECTOR - As used in these Rules and Regulations, the term refers to the person appointed by the Personnel Commission to act as its designated representative in administering the Merit System under the provisions of law and the Rules and Regulations established by the Personnel Commission.

PERMANENT EMPLOYEE – An employee who is lawfully retained in a position after completion of an initial probationary period of six (6) months or one hundred thirty (130) working days of paid regular service, whichever is longer.

POSITION – Any job in the classified service as defined in the Act.

PROBATIONARY EMPLOYEE – An employee in regular service (i.e., not temporary, substitute, limited term, provisional) who has not completed the probationary period.

PROBATIONARY PERIOD – The six(6)-month or one hundred thirty(130)-day period of paid service, (whichever is longer) immediately following appointment to a position from an eligibility list. In unusual cases, the Personnel Director may establish a one-year probationary period for certain classes.

PROMOTION – The transfer of a classified employee from one classification to a position in a classification with a higher salary range.

PROMOTIONAL EXAMINATION – A competitive examination, which is open only to permanent employees of the District who meet the specified qualifications and comply with the application procedures established by the Commission.

PROVISIONAL EMPLOYEE – An employee holding a position under temporary authorization not to exceed ninety (90) days, through the absence of an appropriate eligibility list.

REEMPLOYMENT LIST – A list consisting of the names of employees laid off in accordance with these rules, and who are eligible to be reemployed without reexamination in the classification in which they held status. An employee's eligibility on the reemployment list has a limit of thirty-nine (39) months.

SUBSTITUTE EMPLOYEE – An employee temporarily serving in a position during the absence of the person regularly assigned to that position, (i.e., provisional, limited term or permanent employee) and working out of his/her/her classification.

SUSPENSION – The temporary, involuntary separation of an employee, for cause, from employment with the District by order of the Board.

TEMPORARY EMPLOYEE – Employment on a basis other than permanent or probationary (i.e., limited term status or provisional).

TRANSFER – The reassignment of an employee without examination from one position to another position in the same class or to a position in a related or similar class with the same salary range.

VETERAN - As used in these Rules, means any person who has served in the United States armed forces in time of war, or national emergency declared by the President of the United States of America, and who has an honorable discharge.

ARTICLE II

COMMISSION ORGANIZATION AND PROCEDURE

Rule 2.01 The Commission – The Commission shall have jurisdiction over and responsibility for the following:

A. Adopt the necessary Rules and Regulations for the administration of a Merit System for the District consistent with the California Education Code. The Commission's Rules shall be printed and made available or electronically transmitted to each school, office, and permanent worksite where employees report, and shall be distributed to school libraries for loan to employees. [Ed. Code § 45262(a)]

B. Establish general policy and maintain general supervision over the administration of the Merit System.

C. Promote public understanding of the Merit System.

D. Provide for the hearing of appeals from suspensions, demotions, and dismissals.

E. Review personnel operations and take any action necessary to enforce the provisions of these Rules and Regulations, and applicable laws.

Rule 2.02 Election of a Chairperson – The Commission shall elect one of its members as Chairperson. The election will take place at the last regularly scheduled meeting of the school year, for the following year. In the absence of the Chairperson at a meeting, the most senior member will assume the role.

Rule 2.03 Quorum and Majority – Two (2) members shall constitute a quorum for any regular or special meeting of the Commission and the affirmative vote of two (2) members shall be required to make any motion of the Commission effective.

Rule 2.04 Regular and Special Meetings -- Meetings shall be held at times and places determined by the Commission. Special meetings may be called by the Chairperson or upon the written request of two (2) members of the Commission. Notice shall be given to the members at lease one (1) day prior to the date of such meetings.

Rule 2.04.1 Public Meetings -- All regular and special meetings of the Commission shall be open to the public, except as provided for in the California Education Code, Government Code or any other statute.

Rule 2.04.2 Agenda and Supporting Data – Commission agendas and meetings will be posted/conducted consistent with provisions of California's public meeting law, and the Brown Act (Govt. Code §54950, et seq.). Insofar as possible, at least seventy-two (72) hours prior to every regular or special Commission meeting, the agenda shall be provided to the designated representatives of all employee organizations representing classified employees, the Commission members, and the Superintendent of Schools. The agenda(s) will be available online as well as distributed to each school/work site for posting, and upon request to the news media.

Rule 2.05 General Duties of Personnel Director -- The Personnel Director shall perform and discharge all of the powers, duties, purposes, functions and responsibilities vested in him/her by law and contained in these rules, and shall do whatever else is both legal and necessary to administer the Merit System, including acting as Secretary to the Commission.

Rule 2.07 Enforcement of the Act and Rules -- The Commission shall enforce the provisions of the Act and these Rules, and hold such hearings and conduct such investigations as may be necessary.

Rule 2.08 Amendment and Suspension of the Rules – The Commission shall prescribe, amend, and suspend, subject to the provisions of the Act, any such rules as may be necessary to insure the efficiency of the service and the selection and retention of classified employees, upon a basis of merit and fitness. This/her provision shall not be construed as preventing the Board, subject to existing provisions of the law, from prescribing, amending or suspending such other rules governing classified employees, as are deemed necessary in the conduct of school business.

Rule 2.1.1 Term(s) of Office and General Selection Procedures – The Commission is composed of three (3) individuals who must be registered voters, reside within the Manhattan Beach Unified School District, and be "known" adherents to the principles of the Merit System. One (1) member of the Commission is appointed by the Board , one member is appointed by the Board upon recommendation of the classified employee organization which represents the largest number of the District's classified employees, and the third member is appointed by the other two (2) members of the Commission. Subsequent to the initial staggered appointments at the formation of the District, the term of all the Commissioners is three (3) years. No member of the Board or the County Board of Education shall be eligible for appointment, reappointment, or continuance as a member of the Commission. A member of the Commission shall not be an employee of the District.
[Ed. Code § 45244)].

ARTICLE III

CLASSIFICATION AND COMPENSATION

JOB CLASSIFICATIONS AND DESCRIPTIONS – Job descriptions are written by the Human Resources Department, subject to approval of the Commission and adoption by the Board. Compensation is subject to negotiation.

Rule 3.01 Establishment, Revision and Deletion of Job Classifications – The Commission shall be responsible for the establishment, development, revision, combination and deletion of job classifications used for employees in the classified service.

Rule 3.02 Job Classification – A job classification is defined as a job title which has a negotiated range of pay.

Rule 3.03 Job Description – For each job classification, a job description shall be approved by the Board and maintained in the administrative offices of the District. The job descriptions shall contain the following information:

A. A title which is descriptive of the work functions described.

B. A qualifying duties section in which the qualifying work functions of the classification shall be outlined. The tasks shall be described in a manner which makes it possible to distinguish the duties from those which are described in any other job description. Non-qualifying duties shall be identified by using such phrases as, “in connection with” or “may perform” the following duties.

C. A qualifications section which indicates the minimum qualifications for determining the eligibility of employees and other individuals who apply to take examinations for particular classifications. The information to be included in this/her section may cover education, experience, knowledge, skill, abilities, and personal characteristics needed to perform the duties of the classification.

Rule 3.04 Interpretation of Job Description – Job descriptions shall be interpreted in accordance with the following provisions:

A. Each job description shall be interpreted in its entirety as a composite picture of the job requirements.

B. An employee should be able to perform most of the work operations described in a job description in order to be eligible for the classification.

C. To be entitled to a job classification, an employee must spend at least thirty-three and one-third percent (33 1/3%) of the time performing work operations which are representative of the requirements of the job description for the classification. An employee shall not be eligible for classification by reason of performing isolated or singular duties that are incidental to his/her job, but which are described in another job description.

D. It is expected that employees normally perform some of the work of higher rated job classifications (in order to qualify for advancement and for purposes of training and cross-training), and some of the work described in lower rated job classifications, when required.

E. An employee is expected to perform the duties described by his/her/her job description under that degree or amount of guidance which is considered usual and normal for that classification.

F. A job description shall not be construed to restrict in any manner, the rights of the District to assign work to employees or to grant an employee or group of employees any right to refuse to perform assigned work for the reason that such work is not specifically described in the job description of his/her current classification or is described in another job description. It shall be the sole and exclusive right of the District to make all work assignments.

Rule 3.05 Performance of Job Analysis – Job analysis should be performed by the Personnel Director as required.

ARTICLE IV

VACATIONS AND HOLIDAYS

VACATIONS AND HOLIDAYS – Refer to Article 11 of the CSEA Agreement, and Board policy for unrepresented classified staff.

ARTICLE V

EXAMINATIONS

Rule 5.01 Need for Examinations – An examination shall be held whenever it is necessary to fill existing or anticipated vacancies in the classified service or whenever it is necessary to replace an eligibility list which is to be abolished in accordance with the provisions of the law and these rules.

Rule 5.02 Promotional Examinations – Upon the approval of the Commission, the Personnel Director shall announce and hold promotional examinations which shall be limited to those employees with permanent classified service status in lower level classifications. In order for an exclusively promotional examination to be held, a minimum of three (3) District employees must be deemed to meet the minimum qualifications of the promotional position by the Personnel Director.

Rule 5.03 Notice of Examination – The Commission may direct the holding of an examination to provide an eligibility list. Public notice of such examinations shall be given no less than fifteen (15) working days prior to the closing date of said position. Each notice of examination shall contain the following information and shall be developed by the Personnel Director:

A. The last date for filing an application;

B. Data concerning conditions of employment such as salary or other compensation, location of employment and expected number of vacancies;

C. A summary of the duties and responsibilities of the position which are contained in the classification job description;

D. The minimum desirable or required qualifications for the classification;

E. The standards of proficiency and the relative weights for each portion of the examination; and

F. Such other information as will assist the public in understanding fully the nature of the employment and the procedure necessary to participate in the examination.

Rule 5.04 Advertisement for Examination Applicants – Written notices concerning tests, vacancies, transfer opportunities and other selection of shifts, positions, assignments, classifications, or locations shall be posted at all work locations of employees who may be affected, not later than fifteen (15) working days prior to the closing date of filing appropriate applications, together with the normal use of newspaper and bulletins for public notice for open or promotional vacancies. If the subject of those notices affects a probationary or permanent classified employee who will not be reporting at his/her or her work location during periods when that employee is not normally required to work, and other paid or unpaid leaves of absence, and who has previously requested notification, those notices shall be mailed to the employee. The Personnel Director may publish and distribute the information by electronic means. [Ed. Code § 45278]

Rule 5.05 Location of Examinations – Examinations shall be held at locations designated by the Personnel Director.

Rule 5.06 Who May Compete – Examinations for position openings in the classified service shall be open to all applicants who meet the minimum qualifications of education, experience, and training, as well as the preliminary requirements provided by the Act and these rules including but not limited to Rule 8.05.

Rule 5.07 Notice to Applicants – Each applicant whose application is completed in a satisfactory manner shall be notified of the time and place of the examination in a reasonable time, normally a minimum of five (5) working days before the examination is to be given.

Rule 5.08 Authorization to Take Examinations – Each applicant's notice of examination shall serve as the authorization to take the examination. No candidate

shall be admitted to any examination without an authorization or other satisfactory evidence of having filed an acceptable application, and picture I.D.

Rule 5.09 Types of Examination – Examinations may be in any form deemed suitable by the Commission including written, oral, technical or a practical demonstration of skill and ability or any combination of the foregoing. The Commission may authorize any investigation of education, experience, character or identify and any test of knowledge, manual skill, or physical and mental fitness.

Rule 5.10 Examination Procedure

A. Be approved by the Personnel Director in advance of the examination and, after their preparation, the examination questions shall be maintained in a secure location.

B. All competitors in any written examination must take the examination on the prescribed date, unless expressly approved, in writing, by the Personnel Director.

C. All necessary explanations will be made to the whole group of examination candidates, and no exam question will be explained to any individual examinee. Examiners and Proctors are forbidden to explain the meaning of, or to make remarks relating to any question that may assist in its solution.

D. Communication between examinees during an examination is strictly forbidden, and examinees are forbidden to receive aid from one another or to use unauthorized help in any form. Before the commencement of an examination, examinees will be required to hand to the examiner any printed or written material in their possession that might serve to aid them in the examination. Evidence of copying or collusion by an examinee will automatically result in the cancellation of his/her examination papers and the permanent debarment of the examinee from such future examination(s). Copies of the questions in the examination shall not be made or taken from the examination room.

E. Where written examinations are required, they shall be so managed that none of the examination papers will disclose the name of any competitor until all examination papers of all the competitors in a given examination have been marked and rated.

Rule 5.11 Rating of Examinations – All examination papers shall be marked and rated under the direction of the Personnel Director, unless rated by a contracting agency.

Rule 5.12 Notice of Result of Examination – As soon as practicable after the rating of an examination has been completed and the eligibility list established, each competitor shall be notified, in writing, of the result of his/her/her examination.

Rule 5.13 Appeal for Review of Written Examination – Any examinee may appeal to the Personnel Director for a review of his/her examination papers, presenting his/her/her reasons, in writing, therefore within ten (10) working days after the establishment of the eligibility list. The appeal must be specific and must state where errors have occurred and the adjustment to which the examinee believes he is entitled. If the appeal is found to be justified, a review shall be granted and the ratings of the competitor changed in accordance with the findings. If such review by the Personnel Director discloses errors affecting the examination papers of other examinees, then all the examination papers shall be reviewed in like manner. All action taken on appeals shall be presented to the Commission for ratification. No change in an eligibility list shall necessarily invalidate any appointment which was valid when made.

Rule 5.14 Inspection of Examination Papers – All examination papers prepared by examinees are the property of the Commission and are confidential records to the extent permitted by law. Examinees may be permitted to review their own examination papers, when available, in the presence of the Personnel Director or a designated representative.

Rule 5.15 Ties in Open Competitive Examinations – When two (2) or more examinees have the same final grade, placement on the eligibility list shall be based on the highest rated score of the examination.

Rule 5.16 Ties in Promotional Examinations – When two (2) or more examinees have the same score in a promotional examination, they shall be placed in the same rank on the eligibility list.

Rule 5.17 Continuous Examinations – The Commission may authorize the Personnel Director to provide for the continuous examination to fill openings which the Commission determines cannot be practicably filled by promotional or open examination only.

Rule 5.18 Veterans' Credits – Examinees in entrance examinations who are veterans of the U.S. armed forces, with an honorable discharge, shall have five (5) points added to their passing examination score, unless they are disabled veterans of the U.S. armed forces, in which case they shall have ten (10) points added to their passing examination scores.[Ed C. §§ 45294-45296]

Rule 5.19 Promotional Preference – Five (5) points shall be added to the total examination score of employees of the District classified service who receive a passing grade in open or promotional examinations.

ARTICLE VI

APPLICATIONS

Rule 6.01 Filing of Applications – All applications must be made on official application forms furnished by the Commission. Applications must be completed according to instructions on the application form and filed in the office of the Personnel Director, on or before the closing date specified in the examination announcement or postmarked before midnight of that date. The applicant shall certify the truth of all statements made in the application by his/her signature on the application. All applications and related references shall become confidential records of the Commission and shall not be returned to the applicant under any circumstances. Names of applicants shall not be made public.

Rule 6.02 Qualifications of Applicants – Applicants must be of good moral character, and in all respects mentally and physically competent to perform the duties of the position for which applied. Applicants must possess all requirements specified in the minimum qualifications established for the class.

Rule 6.03 Disqualification of Applicants – An applicant may be disqualified or his/her/her name removed from an eligibility list before or after he/she has taken the examination for the following reasons:

A. Lack of any of the minimum requirements for applicants.

B. False statement of material facts in the application.

C. Failure to submit application correctly or by the stated closing date.

D. Addiction to the use of narcotics or alcohol, or the habitual use of intoxicants of any kind to excess.

E. Conviction of a felony or any other crime that adversely reflects on the ability to perform job duties, or involves moral turpitude.

F. Previous dismissal from any public or private employer for delinquency, misconduct, or similar cause.

G. Attempted use of political pressure or bribery to secure advantage in the examination.

H. Obtaining information regarding the examination to which the applicant is not entitled.

Rule 6.04 Disqualified Applicant -- A disqualified applicant shall be notified of disqualification within a reasonable period of time, or at the expiration of the eligibility list.

ARTICLE VII

ELIGIBILITY

Rule 7.01 Eligibility List – An eligibility list is a listing of individuals who are eligible for certification and appointment to a particular classification. [§45272]

Rule 7.02 Promotional Eligibility List – A listing of employees who are eligible for promotion to a particular classification. Employees who terminate their employment, except by layoff for lack of work or lack of funds, shall have their names stricken from promotional eligibility lists effective with the termination date.

Rule 7.03 Eligible Candidates – Eligible candidates are those individuals who have qualified for certification in a particular classification based upon satisfactory completion of a competitive examination.

Rule 7.04 Preparation and Maintenance of Eligibility Lists – The Personnel Director shall prepare and maintain all eligibility lists. The individual who receives the highest score in the competitive examination shall be placed in the first rank on the list and the remainder in descending order of their scores. When two (2) or more individuals have the same score, they shall be placed in the same rank on the eligibility list. The names of individuals shall be stricken from an eligibility list on the effective date of their hire or promotion into a classification for which the list was prepared.

Rule 7.05 Duration of Eligibility Lists – The Personnel Director shall determine the period of time during which any type of eligibility list shall remain in effect, except that in no case may the time be less than twelve (12) months.

Rule 7.06 Notification of Eligibility – Each individual placed upon any eligibility list shall be informed of his/her/her position on the list and his/her/her score, in writing, by the Personnel Director or designee.

Rule 7.07 Inspection of Eligibility – A copy of existing eligibility lists shall be placed on file in the office of the Personnel Director and shall be available for inspection.

Rule 7.08 Combination of Successive Eligibility Lists – Combinations of successive eligibility lists may be made during their first year. Eligible candidates on lists established within the first year of the life of another list may be placed in the order of their relative scores in the examination on the like list, if lists so merged have been

promulgated under conditions and techniques which are sufficiently similar to preserve their competitive character.

When the merging of non-continuous eligibility lists results in two or more candidates with identical scores, the candidates shall be placed in the same rank.

ARTICLE VIII

APPOINTMENTS

Rule 8.01 Vacancies and How Filled – All vacancies in the classified service will be filled from certified eligibility lists by the Board upon recommendation of the Superintendent. When a list has been reduced to less than three (3) names, the Board may request a new list.

Rule 8.02 Request for Eligibility List – When a new eligibility list is needed, the Superintendent or his/her authorized agent shall notify the Personnel Director of that fact in advance of the date of the anticipated need.

Rule 8.03 Procedure for Filling Vacancies – When an opening is to be filled, the Personnel Director shall provide the Superintendent or his/her authorized agent, the names and addresses of a person or persons who have indicated a willingness to accept the conditions as specified. The names shall be provided from the proper list in the following order of precedence and each list shall be exhausted before obtaining names from the new lower list:

A. Reemployment List – When a reemployment list exists, the name of the eligible candidate ranking highest on the list shall be provided and he/she shall be appointed.

B. Promotional List – When a promotional list exists, the names of the eligible candidates in the first three (3) ranks shall be provided and one (1) of them shall be appointed.

C. Open Competitive List – When a list is developed from open competitive examination, the names of the eligible candidates in the first three (3) ranks shall be provided and one (1) of them shall be appointed.

Rule 8.04 Provisional Appointments – Full Time -- When no eligibility list exists for a position in the classified service, an employee may receive provisional appointments which may accumulate to a total of 90 working days. A 90-calendar day interval shall then elapse during which the person will be ineligible to serve in any full-time provisional capacity. No person shall be employed as a provisional employee for a total of more than 126 working days in any given fiscal year except as permitted by the Education Code.

Rule 8.05 Nepotism – **STATEMENT OF INTENT**: The purpose of this Rule is, in general, to preclude the assignment of close relatives or cohabitants in the same organizational unit. In order to forestall possible conflicts of interest and ensure the orderly conduct of District business, it is recognized that organizational units with the District may adopt more restrictive regulations as appropriate.

A. All administrators responsible for the assignment of employees shall endeavor to avoid the assignment of close relatives or cohabitants to work in situations where conflicts of interest could arise. In no case will an assignment be allowed that will establish a supervisor/subordinate relationship at the first or second level of supervision between two employees who are close relatives or cohabitants.

B. If, for the good of the District, an assignment of close relatives or cohabitants within the same organizational unit is to be made, the assignment must first be reviewed and approved by the responsible Educational Service Center administrator, Division administrator, or equivalent or designee. If a supervisory relationship as described in Paragraph A would be established by the assignment, administrative approval must be withheld.

C. For the purpose of this Rule, "close relatives" is defined as spouse, brother, sister, parent, child, or grandchild; and "cohabitants" is defined as persons living together.

D. District employees and applicants must disclose to the Classified Employment Services Branch any relationship which may be covered by this Rule prior to appointment to a position or upon change to a relationship status as covered above.

Rule 8.06 Terminating Assignments of Provisional Employees – The services of provisional appointees who fail to establish a status for a position in their class after having taken an examination for such a position, shall be terminated within fifteen (15) calendar days after the date on which an eligibility list has been established for such a position, provided this/her fifteen (15) calendar day period does not extend beyond their ninety (90) working day provisional assignment.

Rule 8.07 Subjects Regarding Which No Questions Shall Be Asked – No questions relating to political or religious opinions or affiliations, or relating to race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation, shall be asked of any applicant or candidate whose name has been certified for appointment, nor shall any discrimination occur based thereon. MS. HOLGUIN Write a new sentence here… the ability of an applicant to perform job-related functions and there may be a response to an applicant's request for reasonable accommodation.
[Ed. Code § 45293; Govt. Code § 12940(a)]

Rule 8.08 Physical and Psychological Examinations – Before the appointment of a new classified employee, the Superintendent may require physical and psychological examinations. All classified employees shall be examined for tuberculosis in accordance with Education Code provisions. When a medical examination is required, it shall be taken within a time designated by the Personnel Director and at the expense of the District.

ARTICLE IX

PROBATIONARY PERIOD

Rule 9.01 Length of Probationary Period – All appointments from an eligibility list to a permanent position shall be for a probationary period of six (6) continuous months or one hundred thirty (130) days of paid service, whichever is the longer calendar period. The probationary period shall not include time served under any other appointment.

Rule 9.02 Permanent Status – Upon satisfactory completion of the probationary period, an employee acquires status as a permanent employee.

Rule 9.03 Termination of Probationary Service – During a probationary period, any new employee may be terminated by the Board without recourse. A permanent employee who has vacated a position to accept another in a higher class may be demoted to the class from which promoted, without recourse to an appeal or hearing. If necessary, in the event of such reinstatement, another employee in the class to which reinstatement is made may be laid off in accordance with the layoff procedure specified in these Rules and Regulations.

ARTICLE X
PERFORMANCE EVALUATIONS*

ARTICLE XI
TRANSFERS*

ARTICLE XII
LEAVES OF ABSENCE*

* Refer to Articles 3, 5 and 6, respectively, of the Master Agreement between MBUSD and CSEA

*Refer to Articles 9, 8 and 11, respectively, of the Master Contract between MBUSD and MBUTA

ARTICLE XIII
RESIGNATIONS

Rule 13.01 Resignations in Good Standing – A permanent or probationary classified employee who desires to resign in good standing shall:

A. Have a satisfactory record of performance in his/her/her present position.

B. Submit his/her/her written resignation to the Superintendent. He/she should give at least two (2) weeks' notice of his/her/her intention to resign, unless his/her/her supervisor consents to an earlier effective date. Failure to give the recommended two (2) weeks' notice may disqualify an employee's resignation from being considered as having been made in good standing.

Rule 13.02 Resignation during Probationary Period – A person who resigns in good standing during his/her/her probationary term and whose performance is deemed satisfactory may, at his/her request, return to his/her/her original place on the eligibility list at the discretion of the Commission.

Rule 13.03 Appointment after Resignation – A former permanent classified employee may be placed on a reemployment list without examination if all of the following conditions are met:

A. The employee resigned in good standing; and

B. The Superintendent approves the written request of the former employee; and

C. The position applied for is in his/her/her former classification as a permanent or limited-term employee, or as a permanent or limited-term employee in a related lower class or in a lower class in which the employee formerly had permanent status; and

D. The appointment of the former employee will be placed on the reemployment list after all names of laid off employees on the list are exhausted. The order on the list of former employees who resigned will be by date of request to be placed on the list. If the former employee is re-appointed within the thirty-nine-(39)month term as designated by the Education Code, his/her/her break in service shall be disregarded and his/her/her rights, benefits, and burdens as a permanent employee shall be restored.

ARTICLE XIV

LAYOFF AND REEMPLOYMENT

Management, supervisorial and confidential employees with prior classified service may have bumping rights back into previously held classified positions. Where previously held positions are in the CSEA bargaining unit, the bumping rights and reemployment of such individuals will be governed by Article 20 of the CSEA collective bargaining agreement.

Rule 14.01 Layoff

A. Individuals may be laid off only for lack of work, lack of funds or elimination of a position. It is the policy of the District to give a sixty-(60)day written notice in the event of layoff pursuant to the requirements of the Ed Code.

B. Employees shall be released or laid off according to their status in the following order: 1) Substitute, 2) Temporary, 3) Probationary, and 4) Permanent.

C. The order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first. "Length of service" shall be based on paid days of service after date of hire. [see §45308]

D. In the case of two (2) or more employees having the same date of hire, the order of layoff of such employees shall be determined by seniority in classification. If both hire date and seniority in classification are equal, the decision will be made based on employee skills, experience, attendance, and work record. If each of the above criteria are equal for all affected employees, the order of layoff will be decided by lottery.

E. In lieu of being laid off, an employee may elect demotion to any classification with the same or lower maximum salary in which he/she had previously served a permanent appointment and provided he/she holds seniority rights greater than those of an incumbent. Any employee displaced by such a demotion shall have the same option of demotion, if available, afforded by this/her rule as if his/her/her position had been abolished or discontinued.

F. To be considered for demotion in lieu of layoff, when demotion would result in the displacement of an employee with a shorter length of service, the employee subject to demotion shall be required to notify the Human Resources office, in writing, of such election no later than ten (10) days after receiving notice of layoff.

Rule 14.02 Reemployment

A. Substitute or Temporary Employees who are released shall hold no reemployment rights.

B. Persons laid off will be placed on a reemployment list and be eligible for reemployment for a period of thirty-nine (39) months, and shall be reemployed in reverse order of layoff in preference to new applicants/eligibility lists. They shall also have the right to participate in promotional examinations during the period of thirty-nine (39) months. Upon reemployment, the layoff absence shall not be regarded as a break in service.

C. Employees who take voluntary demotions or reductions in assigned time in lieu of layoff or to remain in their present positions rather than be reclassified or reassigned, shall be granted the same rights as persons laid off and shall be eligible to be considered for reemployment for an additional twenty-four (24) months, subject to the same tests for fitness under which they qualified for appointment to the class.

1) An employee who receives such notice of reemployment and refuses to accept in writing the offer of reemployment in the classification held at the time of layoff, within ten (10) work days, shall be deemed to have rejected that offer of reemployment. Failure to reply within ten (10) work days will be considered a refusal. After an employee has declined two (2) such offers in the classification held at the time of layoff, he/she by such action relinquishes all employment restoration rights with the District.

2) If the employee in a layoff status accepts the classification being offered, the employee shall have up to ten (10) work days from the date of acceptance to report for work. This does not preclude an employee from returning to work in fewer than ten (10) work days after acceptance of such an offer. Should the employee fail to return to work within ten (10) work days following acceptance, all reemployment rights are relinquished.

ARTICLE XV

SUSPENSIONS, DEMOTIONS, AND DISMISSALS

Rule 15.01 Power to Suspend, Demote or Dismiss – Suspensions, demotions, or dismissals of classified employees may be made only by the Board on the recommendation of the Superintendent.

Rule 15.02 Causes for Suspension, Demotion, or Dismissal – Causes for suspension, demotion, or dismissal are:

A. Use of fraud, deception or misrepresentation of material facts in obtaining an appointment or a place on an eligibility list.

B. Willful violation of the Education Code or the Rules and Regulations of the District.

C. Incompetence, inefficiency, insubordination, dishonesty, inattention to or dereliction of duty, lack of ability, or failure to perform assigned duties in a satisfactory manner.

D. Conduct unbecoming an employee of the District, either on or off duty.

E. Immoral conduct, drunkenness on duty, intemperance, addiction or use of narcotics, or conviction of a felony.

F. Political activity during assigned hours of duty.

G. Absence without good cause, or any unauthorized absence for more than three (3) days.

H. Failure to pay or make reasonable provision for the payment of just debts.

Rule 15.03 Suspension – Except as provided by law with respect to possible sex offenses, all suspensions shall be limited to a maximum of thirty (30) working days, and shall be without pay.

Rule 15.04.01 Appeal by Employee for Suspension, Demotion, or Dismissal – No appeal is possible in the following cases:

A. Dismissal of a new employee during his/her probationary period.

B. Demotion of an employee during his/her probationary period back to the position from which he had been promoted when both positions are in the permanent classified service.

Rule 15.04.02 – Within ten (10) working days after any suspension, demotion, or dismissal of an employee in the permanent classified service, the Personnel Director shall file the Board's written charges with the Commission and provide a copy of the charges to the employee: A) personally; or B) by deposit in the United States Postal Service via registered or certified mail with postage prepaid and return receipt requested and addressed to the employee at his/her last known address.

Rule 15.04.03 – Within fourteen (14) working days after such charges are filed, the subject employee may appeal by filing with the Commission a written answer to the charges.

Rule 15.05 Grounds for Appeal – Appeal can be made only on one (1) or more of the following grounds:

A. That the procedure set forth in these rules has not been followed.

B. That the removal was made unlawfully because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. [Govt. Code § 12940; Ed. Code § 45293]

C. That the charges made do not constitute sufficient cause for the actions taken.

D. That the action taken was not in accordance with the facts.

E. That there has been an abuse of discretion.

Rule 15.06 Investigation on Appeal – The Commission shall investigate the matter on appeal. It may require further evidence from either party. Upon request of the appealing employee, the Commission shall order a hearing, which will be held within a reasonable length of time from the receipt of the appeal. The investigation and the hearing, if any, shall be confined to the truth or falsity of the written charges and the written answer.

Rule 15.07 Conduct of Hearing – If a hearing is so ordered, it will be closed to the general public. The representative of the Board shall first present evidence in support of the charges. The appealing employee, who may be represented by counsel, shall have the right to present his/her evidence. Witnesses desired by either side shall be subject to subpoena issued by the Commission, but requests for subpoenas must be filed with the Commission at least five (5) working days prior to the date of hearing.

Testimony of all witnesses shall be presented at the hearing. If in the opinion of the Commission or other trier of fact, a witness has good and sufficient reason for being unable to be present, written testimony will be accepted under the following conditions:

A. Such evidence must be submitted by sworn declaration of the witness. The declaration shall be confined to a statement of facts bearing on the case and within the personal knowledge of the witness, and shall not contain any conclusions of the witness.

B. Copies of all such declarations must be filed with the Commission at least five (5) working days prior to the date of the hearing, and may be inspected by the other party to the hearing, who shall be notified of the filing of such declarations.

C. The Commission may reject any such declaration submitted which fails to comply with any of the foregoing conditions.

The Commission may authorize a hearing officer to conduct any hearing or investigation which the Commission itself is authorized to conduct. The hearing officer may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the deposition of witnesses to be taken in the manner prescribed by law. The Commission may instruct such hearing officer to present findings and recommendations. The Commission may accept , reject or amend any of the findings or recommendations of the hearing officer. Any rejection or amendment of findings or recommendations shall be based either on a review of the hearing transcript or investigation, or upon the results of such supplementary hearing or investigation as the Commission may order. The Commission may employ by contract or as a professional expert or otherwise any such hearing officer or representative and may adopt and amend such rules and procedures as may be necessary.
[Ed. Code § 45312]

Rule 15.08 Rules of Evidence – All hearings before the Commission shall be governed by the above procedure, and in the conduct thereof, neither the Commission nor any commissioner, nor the Personnel Director, nor other authorized agents of the Commission shall be bound by the technical rules of evidence. Evidence may be admitted if it is the type of information commonly relied on in the conduct of serious affairs. No informality in any proceeding or in the manner of taking testimony before the Commission shall invalidate any order, rule or regulation made, approved or confirmed by the Commission.

Rule 15.09 Decision of the Commission – The decision of the Commission, arrived at by majority action, shall be rendered in writing within ten (10) working days after the hearing is completed, or, if a hearing is conducted by a hearing officer, within ten (10) working days after the Commission's receipt of a proposed decision. If no hearing is held, a decision will be rendered within a reasonable time after the employee filed his/her written answer. Copies shall be sent to the Board and to the employee. The decision shall not be subject to review by the Board.

Rule 15.10 Failure to Answer – If the accused employee fails to appeal by filing his/her written answer within the time provided, the order of suspension, demotion, or dismissal shall be final without any action by the Commission.

Rule 15.11 Dismissed Employee Not Eligible – Any classified employee dismissed from employment shall be removed from all eligibility lists and may not take examinations thereafter, without specific consent of the Board.

Rule 15.12 Reinstatement of Employees – If the Commission grants the appeal of the employee, in part or in whole, it may order paid all or part of his/her full compensation from the time of suspension, demotion, or dismissal, and may order a lesser form of discipline or order his/her reinstatement. Upon notification of the Commission's decision, the Board shall take such action as is necessary to implement the Commission's decision.