

CHAPTER 2: THE PERSONNEL COMMISSION

2.1 ORGANIZATION OF THE COMMISSION

2.1.1 Composition

The Personnel Commission is composed of three individuals. One member of the Commission is appointed by the Board of Trustees, one member is appointed by the Board of Trustees upon the recommendation of the classified organization which represents the District's classified employees, and the third member is appointed by the two (2) members of the Commission.

(Reference Education Code 45245) (Revised 11/09/00)

A. Compensation of Commissioners

The Board of Trustees may authorize payment to members of the Personnel Commission an amount not to exceed Fifty dollars (\$50) per meeting, and not to exceed Two Hundred Fifty dollars (\$250) per month.

(Reference Education Code 45250) (Revised 11/09/00)

2.1.2 Qualifications

In order to serve as an Ocean View School District Personnel Commissioner an individual shall be a registered voter, reside in the Ocean View School District territorial boundaries, be a known adherent to the principles of the Merit System, shall not be an employee of the District, shall not be a member of the District's Board of Trustees, and shall be eligible to serve as a public officer in the State of California. *(Reference Education Code 45244 and Government Code 1020 et seq) (Revised 11/09/00)*

2.1.3 Term

The term of office for each Commissioner is three (3) years and expires at noon on December 1 of the third year. Terms of office have been scheduled so that the term of office of not more than one (1) Commissioner expires each December 1. *(Reference Education Code 45247) (Revised 11/09/00)*

2.1.4 Commissioner Appointment Procedures

(New Rule 11/09/00)

On or about September 1 of each year, the Director of Classified Personnel shall notify the Board of Trustees and the recognized classified employee organization(s) of the name and home address of the commissioner whose term will be expiring and whether or not that commissioner will accept reappointment for another three-year term. The notification will also provide the name of the appointing authority, and the procedures to be followed in filling the upcoming commissioner position.

A. The Board of Trustees' Appointment:

By September 30, the Board of Trustees shall publicly announce the name of the person it intends to appoint or reappoint. At a Board meeting to be held after thirty (30) and within forty-five (45) days of the date the Board publicly announced its candidate, the Board shall hold a public hearing to provide the public, employees and employee organizations the opportunity to express their views on the qualifications of the person recommended by the Board of Trustees for appointment. The Board, at that time, may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

(Reference Education Code 45246(b) (1) and (d))

B. The Classified Employees' Appointment:

By November 1, the classified employee organization having authority to nominate the classified employees' appointee to the Commission shall submit to the Board the name of the person it wishes to appoint to the Commission. 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, to be effective on the date on which the vacancy would occur.

(Reference Education Code 45246(c) and (d))

1. In the event that a vacancy is created on the Personnel Commission because of the classified employees' failure to agree upon a nominee, the Board of Trustees, upon recommendation of the Director of Classified Personnel, may make an emergency appointment for hiring purposes only until such time as a permanent appointment can be made, but not to exceed sixty (60) days.

(Reference Education Code 45246(e) and 45248)

C. The Commissioners' Appointment:

By September 30, the appointee of the Board of Trustees and the appointee of the classified employees shall publicly announce the name of the person they intend to appoint or reappoint. At a Personnel Commission meeting to be held after thirty (30), and within forty-five (45) days of the date the Commission publicly announced its candidate, the Commission shall hold a public hearing to provide the public, employees, employee organizations and members of the Board of Trustees the opportunity to express their views on the qualifications of the person recommended by the Commission for appointment. The Commission at that time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

(Reference Education Code 45246(f))

1. In the event that a vacancy would otherwise exist on the Personnel Commission as of December 1 because of the failure of the Commission to take action on a reappointment or on a new appointment, the commissioners' prior appointee shall continue in office and to function as a member of the District's Personnel Commission until such time as the State Superintendent of Public Instruction takes the necessary action(s) to appoint qualified successor and that person is prepared to assume the duties and responsibilities of the position (not to exceed ninety (90) calendar days beyond the December 1st expiration of the Commissioners' appointees term).

(Reference Education Code 45246(g))

2. If the reason for the lack of appointment is an inability to agree upon a joint appointee by September 30, the State Superintendent of Public Instruction shall make the appointment within thirty (30) days.

(Reference Education Code 45246(b)(2))

2.1.5 Personnel Commissioner's Appointment Procedures (New Rule 11/09/00)

The following specific procedures are to be utilized for selection of the Personnel Commissioner's appointee to the Personnel Commission.

- A.** By July 15 the Director of Classified Personnel shall inquire of the appointee of the Personnel Commission whose term is up in December of that year whether the Commissioner is interested in reappointment to the Personnel Commission for another three (3) year term of office.

1. If the Commissioner is interested in reappointment the Commission shall announce their intent to reappoint or not to reappoint by September 30.
 - a. If the Commission's decision is to reappoint the Commissioners' appointee to a subsequent term of office the procedures of 2.1.4.C of these Rules shall be followed.
 - b. If the Commission's decision is to not reappoint the incumbent to a subsequent term of office, and if they do not announce the name of a new nominee by September 30, the procedures of 2.1.4.C.2 of these Rules shall be followed and the State Superintendent of Public Instruction shall make the appointment.

2. If the Commissioners' appointee is not interested in subsequent appointment to the Commission, the following procedures shall be followed.
 - a. A recruitment process shall be opened by the Director of Classified Personnel as directed by the Personnel Commission. The process may include news releases sent to local newspapers and local community based organizations, e.g., Chamber of Commerce, Rotary Club, parent support groups via the Presidents Round table, or other such resources as specified by the Commission.
 - b. An application form eliciting information to document the applicants meeting the requirements of Education Code 45244 shall be completed by all interested applicants.
 - c. The Commission may make its decision based on the applications as submitted or may conduct individual interviews of the applicants.
 - d. The Commission shall then comply with 2.1.4.C of these Rules.

2.1.6. **Election of Officers**

- A. At its first meeting each December, the Commission shall elect one of its members Chair, and another member as Vice-Chair, to serve a term of one year or until their successors are duly elected. In the absence of the Chair, the Vice-chair shall assume the duties.
- B. The Chair will perform duties as directed by law and the rules of the Commission. These duties include:
 1. Sign all instruments and communications as directed by the Commission.
 2. Consult with the Director on the preparation of Commission agendas.
 3. Confer with the Director on matters which may arise between meetings.
 4. Share any communications and mail directed to the Commission. *(Revised 02/12/98)*

2.1.7 **Quorum and Majority**

Two members shall constitute a quorum for any regular or special meeting of the Commission, and the affirmative vote of two members shall be required to make any motion of the Commission effective, except where otherwise noted in these rules.

2.1.8 **Voting**

Commissioners present shall vote upon each action item on the agenda. A vote may be taken for or against the motion, or a Commissioner may abstain from voting. An abstention vote shall not be counted for or against the motion. A Commissioner shall abstain if he/she has a personal or pecuniary interest. In voting on the disposition of disciplinary cases, a Commissioner shall abstain if he/she had his/her objectivity prejudiced prior to the case being heard.

(Revised 02/12/98)

2.1.9 **Authority of Commissioners**

Commissioners have the responsibility to adhere to the laws that affect the Commission and to uphold the rules of the Commission. Individual Commissioners have no authority, except as provided by law and these rules:

A. A Commissioner may:

1. Seek information from the Director and/or consult with the Director regarding Commission business.
2. Pursue diligent efforts to observe, understand, and evaluate Commission operations.
3. Attend meetings, staff development programs, or activities that increase knowledge and understanding of Commission operations, goals or programs.

B. The Commission as a Body:

The Commission as a body has sole discretionary authority to:

1. Adopt positions on various issues
2. Provide direction to commission staff through the Director, Classified Personnel:
 - a. Absent concurrence by the Commission, the Director may not be bound to a course of action established by an individual Commissioner.
 - b. Upon the occurrence of a one-on-one meeting including: phone calls, faxes and E-mails, the Director shall note the basis and outcomes and forward the same to the absent Commissioners within one working day. (Revised 02/12/04)

The Commission was created by law to provide impartiality in the administration of the provisions of the laws that govern merit systems. Commissioners are appointed by the District and the classified employees bargaining representatives and their points of view should be considered. However, Commissioners are independent and impartial and should seek to apply that standard to all deliberations and actions. Commission and staff should seek to maintain open, cooperative and effective communication with both the appointing entities. (New rule 05/14/98)

2.2 MEETINGS

2.2.1 Regular and Special Meetings

Regular meetings shall be held at times and places determined by the Commission. Special meetings may be called by the Chair, or upon the written request of any two members of the Commission. Notice of special meetings shall be provided to all Commission members at least one day prior to the date of any such meeting. All meetings are governed by the rules of parliamentary procedures and provisions in the Ralph M. Brown Act.

(Reference Government Code Section 54950)

2.2.2 Public Meetings

- A. All regular and special meetings of the Commission shall be open to the public and all persons shall be permitted to attend any public portion of such meetings. This section is not to be construed as allowing employees to absent themselves from their duties to attend Commission meetings.
- B. Individual employees, employee organizations, and other interested parties may submit their written views to the Commission on any matter within the Commission's jurisdiction and will be provided reasonable opportunity to present such views orally. The Commission will consider any such comments or recommendations prior to arriving at a course of action.
- C. Public meetings shall be tape recorded by the Director or his designee. Meeting tapes shall be maintained for one year. Copies of tapes may be requested by Commissioners at no cost. Request for copies of tapes by any other person or entity may be made to the Director who may charge a fee not to exceed the cost of materials and labor.

(Revised 02/12/98)

2.2.3 Closed Sessions

- A. The Commission may meet in closed sessions to consider the employment, discipline, or dismissal of any employee and/or to hear complaints or charges brought against such employee, unless such employee requests a public hearing. The Commission shall not take action relating to an employee in closed session unless the employee has been notified of his/her right to a public hearing and has declined the public hearing or properly failed to request same.
- B. The Commission may meet in closed session for any other lawful purpose pursuant to the provisions of Government Code Section 54950 etc., including but not limited to consideration of pending litigation, or recommended findings and conclusions of a Commission-appointed Hearing Officer.
- C. Minutes of the closed session shall be prepared by the Director, Classified Personnel, or when absent, by the Chair of the Commission and placed on the agenda of the next Commission closed session meeting for approval. The minutes shall be confidential and shall be maintained in a secure place.

(Revised 02/12/98)

2.2.4 Agenda

- A. At least 72 hours prior to every regular or 24 hours prior to every special Commission meeting, the agenda shall be provided to the designated representatives of all employee organizations representing the District's classified employees, the District's Superintendent, and any media source which has made prior written request for such notice to the Commission, except in an "emergency" situation, as defined in Government Code Section 54956.5. The agenda will also be posted on the Commission's bulletin board and distributed to all departments and schools for posting.

- B. The agenda will be prepared by the Director in consultation with the Commission Chair. Action items will be clearly indicated with all other items being information or discussion and not considered for action on that agenda. Agenda items must be submitted to the Director no later than the end of the working day seven days preceding the next Commission meeting.
- C. Agenda item content may include, but not limited to: Subject, background information, considerations for discussion, financial or staff impact, and recommendation for action by Director. Agenda items will be submitted within the prescribed time line.
- D. Agendas shall be available to the Commissioners at least three calendar days before the meeting. Support information shall include: The Director's report, minutes to be approved (including closed sessions when appropriate), copies of communications from employees, CSEA, the District, legal opinions, and other materials needed to conduct an informed meeting.

(Revised 02/12/98)

2.2.5 **Minutes**

- A. The Director, Classified Personnel shall record in the minutes the time and place of each public meeting, the names of the Commissioners present, all official acts of the Commission, and the votes of the Commissioners. The minutes shall be written and presented for review and approval at the next regular meeting. Following adoption, Commission minutes or a true copy thereof shall be open to public inspection. Copies of the official minutes shall be distributed to the Secretary to the Board of Trustees, recognized employee organizations, and posted in all departments and schools.
- B. Minutes of the closed session shall be prepared by the Director, Classified Personnel, or when absent, by the Chair of the Commission and placed on the agenda of the next Commission closed session meeting for approval.

2.3 COMMISSION EMPLOYEES

2.3.1 Status of Commission Employees

- A. The Director, Classified Personnel and others who may be employed to assist the Commission in carrying out its responsibilities shall be deemed employees of the Personnel Commission. However, they shall as well be considered part of the classified service, and the rules, procedures, benefits and burdens pertinent to the classified service shall apply to Commission employees, except as the Commission may specifically otherwise direct.
- B. The Director's performance objectives shall be evaluated by the Commission annually, in closed session, no later than thirty days after the Director's anniversary date.
- C. Approval of Attendance to Conferences, Workshops, and Training Programs: Attendance at any professional development activity by a commissioner, director, or staff member requiring an expenditure of funds in excess of one hundred (\$100.00) dollars, is to be placed upon the agenda and receive approval at any scheduled Personnel Commission Meeting. *(Revised 02/12/98)*

2.3.2 General Duties - Director, Classified Personnel

- A. The Director, Classified Personnel shall:
 - Perform all of the duties and carry out all of the functions imposed by law and these rules.
 - Act as Secretary to the Commission and shall issue and receive all notifications on its behalf
 - Direct and supervise the employees of the Commission and conduct administrative transactions consistent with the law and necessary to the proper functioning of the office and staff of the Commission.
 - Be free of prejudgment or bias in all matters pertaining to the business of the Commission in order to ensure the impartiality of the Commission.
- B. The Director, Classified Personnel may:
 - Conduct classification, salary and Commission rules studies and make such other investigations as directed by the Commission or as deemed necessary. *(Reference Education Code 452) (Revised 07/18/02)*
- C. In cases where two or more rules appear to be in conflict, or when the rules provide no clear-cut answer to a problem, the matter shall be decided by the Director, Classified Personnel, subject to appeal to the Commission. *(Revised 02/12/98)*

2.4 MISCELLANEOUS PROVISIONS

2.4.1 Budget

- A. The Director, Classified Personnel shall prepare and submit to the Commission a proposed operating budget for the Commission for each fiscal year.
- B. The Commission shall designate one of its meetings at which a public hearing on its proposed budget will be held. At the time the Commission schedules the public hearing, as required by Education Code Section 45253, it shall instruct the Director, Classified Personnel to forward a copy of the proposed budget to the Board and notify the Board of the time, date and place of the public hearing. Board and administrative representatives shall be invited to attend the public hearing and present their views on the budget.
- C. Prior to adoption of its budget, the Commission will hear and fully consider all comments and suggestions that may be offered by the district administration, the Board, or other concerned persons or organizations. Efforts shall be made to resolve any differences that may exist between the Commission and the Board.
- D. When approved by the Commission, the budget shall then be submitted to the County Superintendent of Schools in accordance with Education Code 45253.

2.4.2 Annual Report

The Director, Classified Personnel shall prepare or cause to be prepared, an annual report of Commission activities, as required by Education Code Section 45266. When approved by the Commission, the annual report shall be submitted to the Board of Trustees.

The report shall be prepared for Commission approval as soon after each fiscal year as practicable. The report shall cover Commission activities for the preceding fiscal year.

2.4.3 Employee Personnel Records

- A. The Commission shall establish and maintain, through the Director, Classified Personnel, a service record for each classified employee showing name, title, organizational unit, salary, changes in status, service rating, and such other personnel information as may be considered pertinent.
- B. Every recommendation for temporary or permanent change in status of an employee shall be submitted on prescribed forms to the Commission office.
- C. Materials in employee personnel files that may serve as a basis for affecting the status of their employment shall be made available for inspection by the employee concerned upon request, provided the request gives reasonable notice to the custodian of the file(s) and is made so that the inspection will occur during a time when the office of the custodian of records is open for business. Materials available for such inspection shall not include ratings, reports or records which were either obtained prior to or in connection with the employment of the individual concerned and/or prepared by identifiable examination committee members in a regular or promotional examination.

(Reference Education Code 44031) (Revised 07/18/02)
- D. No information of a derogatory nature shall be placed into an employee's personnel file unless and until the employee has been provided with reasonable prior notice and an opportunity to review and comment thereon. An employee shall be provided reasonable release time without loss of pay for purposes of reviewing and/or commenting on such information. Any written comment provided by the employee concerned shall be permanently attached to the document(s) concerned.

E. Prior to examination of a personnel file, the following data shall be removed:

Ratings, reports or records which;

- a. Were obtained prior to employment with the District.
- b. Were prepared by identifiable examination committee members.
- c. Were obtained in connection with a promotional examination.

2.4.4 **Legal Counsel**

The primary legal services shall aid and advise the Commission in all legal matters. If the legal counsel does not respond to a written request by the Commission for aid or representation within 15 working days of receipt of the written request, the counsel is deemed to have refused to aid or represent the Commission in that matter.

The legal counsel shall refuse to represent the Commission in circumstances in which the counsel knows, or has reason to know, that at the time the request is made a conflict exists between the interests of the Commission and the interests of the Governing Board of the school district.

If the legal counsel refuses or is unable to aid or represent the Commission in a legal matter, the Commission may employ its own attorney, and the reasonable costs thereof shall constitute a legal charge against the general funds of the school district.

All opinions from any legal counsel shall be provided to the commission in writing as soon as possible. Opinions are informational and not binding on the commission until action is agendized and acted upon in a regular or special meeting.

(Revised 02/12/98)

2.5 RULES AND REGULATIONS

2.5.1 Distribution

A copy of these Rules and Regulations will be distributed to each school/department/office for loan to employees. Information regarding changes to these Rules will be distributed to each school/department/ office as soon as practicable after they are approved by the Personnel Commission.

2.5.2 Enforcement of 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 to these purposes.

- A. The Commission shall prescribe, amend, revoke, interrupt, or suspend such Rules as may be necessary to ensure the efficiency of the service, including but not limited to the selection and retention of employees on the basis of merit and fitness.
- B. Proposals to amend, delete, suspend, or add to these Rules will be considered a "first reading" at the meeting in which they are first presented to the Commission. They will not, unless a critical emergency exists, be acted upon at that meeting.
- C. At the "first reading" the Commission will set a date for Commission action on the proposal, which date shall be as soon as practicable. The Commission may also instruct the Director, Classified Personnel to refer the proposal to interested persons and/or organizations for comments and recommendation.
- D. Insofar as possible, interested parties shall be requested to submit their reactions to proposals in writing on or before the stipulated agenda deadline date and shall have the right to present reactions to the Commission orally at the appropriate Commission meeting.
- E. Commission Rules shall not apply to bargaining unit members if the subject matter is within the scope of representation (as defined in Section 3543.2 of the Government Code) and is included in a negotiated Agreement between the Board of Trustees and the exclusive representative of employees in that bargaining unit.
- F. Commission Rules shall be binding upon employees and the Board of Trustees, but shall not otherwise preclude or restrict the authority of such Board, individual employees, and/or their exclusive representative which may be provided to them pursuant to provisions of the Act or other applicable law.