

RULE VIII

EMPLOYMENT STATUS

Section 8.1 NEW EMPLOYEE CLEARANCES

- A. Before initial employment in the county office, each new employee must be certified by a licensed professional that he/she is free of active tuberculosis.

The cost of tuberculosis examinations required shall be borne by the Humboldt County Office of Education.

Employees whose tuberculosis clearances expire shall be suspended without pay pending the securing of a new clearance.

Persons who transfer from other school districts shall be exempt from the initial employment tuberculosis examination requirement provided they can produce certificates showing they were examined by a doctor within four years and found free of active tuberculosis. (Education Code 49406)

- B. All classified employees shall be required to be live scan fingerprinted and cleared before employment.

The cost of such fingerprinting and processing shall be borne by the Humboldt County Office of Education.

- C. Applicants for classified positions shall submit to such medical examinations as are required by the Superintendent or Board policy. Medical examinations shall conform to law. The Superintendent may order reimbursement to the applicant if subsequently employed.

- D. Employees who are required by the Employer to take physical exams shall be reimbursed for actual and reasonable expenses when such an examination is conducted by a physician chosen by the employer. Upon request of the employee, with the Superintendent's approval, the physical examination may be conducted by the employee's personal physician.

- E. No employee may be initially employed until such time as the conditions of this section have been met.

Section 8.2 ORIENTATION OF NEW EMPLOYEES

- A. Each regular classified employee upon initial employment shall receive a copy of the appropriate job description as provided in Rule III, the Classification Plan, Section 3.3.
- B. Each employee shall be counseled by the Personnel Director on salary data, including monthly pay period and amount, daily, hourly, overtime, and differential rate of compensation as applicable.
- C. Each employee shall within five work days be counseled by either the Personnel Director or the immediate supervisor and advised of the following information:
 - 1. Assignment or work location.
 - 2. Duty hours.
 - 3. Prescribed work week.
 - 4. The terms and conditions of probation including performance evaluation procedures.
 - 5. Appropriate work attire for assignment and location.

Section 8.3 PROBATIONARY PERIOD

- A. Appointments made from open or promotional employment lists to regular employment positions shall be subject to an initial probationary period. This probationary period shall be a trial period of six months (130 days) following an original or promotional appointment to a permanent position from an eligibility list as defined in Commission Rules. No time, whether paid or unpaid, shall be credited to the probationary period if the employee is on a leave of absence. Leaves of absence include, but are not limited to, bereavement, jury duty, military leave, sick leave, pregnancy leave, family leave, catastrophic leave I and II, industrial accident/illness, differential leave, personal necessity, general leave and administrative leave.
- B. An employee who has been promoted shall serve a probationary period in the new assignment as if he/she were a new employee.
- C. Probationary employees shall be entitled to the following rights:
 - 1. A new employee who is to be suspended or dismissed during the initial probationary period with or without cause shall be notified by the immediate supervisor in writing of the action to be recommended and the reasons therefor. A copy of the

written document shall be sent to the Superintendent and the Personnel Director. The employee shall not have the right to appeal, unless such an appeal is based on a claim of illegal discrimination and/or if the employee asserts the action was secured by fraud or duress. In such event the Personnel Commission may order an investigation to determine if a hearing will be called to hear the appeal.

2. The employee in making a request for a hearing must provide specific facts supporting the alleged discrimination and/or substantiated proof that significant statements were made through intentional perversion of truth in an act of deceiving or misrepresenting, or that significant facts were obtained through forcible or compulsive restraint or restriction. A request for a hearing made under this subsection shall be submitted to the Commission within fourteen calendar days from the postmarked date of the letter of disciplinary action. The Commission may call a hearing if it feels that in its own judgment, that the proof submitted warrants further action.
 3. If a probationary employee assigned to a regular position is laid-off due to abolishment or reclassification of the position, due to lack of work or lack of funds, or due to being displaced under Section 8.8B of this rule, and if the employee is in good standing at the time of lay-off, his/her name shall be placed on the eligibility list.
- D. An employee who has permanent status in the classified service who has been promoted to a higher class may be demoted involuntarily during the probationary period with or without cause to the former class without a right to appeal except as authorized in subparagraph C1 above.
- E. A probationary employee may only be dismissed for falsifying or failing to disclose information during the application/selection process when:
1. The information left undisclosed is germane to the position held by the employee.
 2. All significant facts were not brought to the attention of a duly constituted interview panel. In the absence of an interview panel, significant facts were withheld during other stages of the application and selection process.
 3. The Personnel Director certified to the Superintendent that both (1) and (2) above apply.

4. A probationary employee who is dismissed, in accordance with this subsection, shall have the right to appeal to the Personnel Commission and shall be notified by the Personnel Director. The notification shall be such as is appropriate for the facts available. The Commission reserves the right to decide if the facts warrant calling a hearing over the matter.

Section 8.4 PERFORMANCE EVALUATIONS – SERVICE RATINGS

- A. All classified employees shall receive a written evaluation three months from the date of hire and/or promotion. Additionally, a formal written evaluation shall be given six months after initial employment or promotion in the Humboldt County Office of Education and annually thereafter pursuant to Section 8.4B below.
- B. Every regular permanent classified employee shall receive a formal written evaluation on the Commission approved form each year prior to May 30.
- C. Every regular classified employee whether probationary or permanent may be evaluated by the immediate supervisor at any other time when exemplary or unsatisfactory service is performed, but shall be evaluated by the immediate supervisor within a reasonable length of time after unsatisfactory service is performed. As long as there exists no collective bargaining provision to the contrary, the evaluation shall be made on the Commission approved form and shall be subject to all other provisions of this section.
- D. The original copy of an evaluation report shall be placed in an employee's personal file. Copies of the report shall be given to the employee and evaluator.
- E. Employees shall be required to sign all evaluations of their performance, acknowledging receipt of copies of such evaluations but not signifying approval or disapproval.
- F. The employee shall have the right to protest an evaluation through the grievance procedures as provided in this rule.
- G. If, subsequent to a duly filed grievance over a performance evaluation, an employee's objections are sustained, the grievance authority may order removal of the specified materials from the employee's file.

Section 8.5 TRANSFERS AND REASSIGNMENTS

- A. Reassignments may be made within the classified service by the Superintendent either unilaterally or upon the submission of a written request to the Superintendent by the employee involved.
- B. Administration-initiated transfers may be made from one position to any other classified position class for other than disciplinary reasons upon the approval of the Superintendent or designated representative.
 - 1. Transfers from a position in one class to a position in another class must be reviewed and approved in advance by the Personnel Director. Approval shall be given when the Personnel Director has verified that the transfer is either lateral, a voluntary demotion, or a promotion.
 - 2. Administration-initiated transfers effected for disciplinary reasons whether lateral or is a transfer with demotion to a lower class, shall be considered an involuntary demotion action as specified in Rule IX, Section 9.2B, and the employee shall have the right to file an appeal over same.
- C. Employee-initiated transfers shall be made in accordance with the following procedures:
 - 1. A permanent employee may request a transfer to another position in the same class, or to a position in a lower class in the same job family as a voluntary demotion. The Personnel Director shall be responsible for determining job families and the appropriateness of the transfer.
 - 2. Transfer requests shall be made in writing to the Personnel Director. The Personnel Director shall place the employee's name on the appropriate transfer lists.
 - 3. Any employee who has requested an appropriate transfer shall have the right to have his/her name certified along with the top three candidates on the employment list and the names of candidates from any other appropriate list.
 - 4. Should the transfer be mutually agreeable to all parties concerned, the effective date of transfer shall be set by the Superintendent.
 - 5. If an employee is denied a transfer, he/she may request a written statement of the reasons for denial.

Section 8.6 GRIEVANCE ADJUSTMENT PROCEDURE

- A. For the purposes of these Rules, a grievance will be an allegation of a misapplication, misinterpretation or violation of any Personnel Commission Rule contained herein.
- B. A grievance must be initiated within 20 work days of the time the employee knew, or should have known, of the alleged violation.
- C. The grievant shall have the right at each step of the grievance procedure beyond Step 1, to be represented by person or persons of their own choosing. The grievant must be present at any formal grievance meeting.
- D. The Personnel Director shall bear the responsibility for the maintenance of records. The Personnel Director shall have access to such records. The Superintendent and the Personnel Director shall share the joint responsibility for rendering services essential to the resolution of the grievance.
- E. During the course of any proceeding and until a final settlement has been reached, all proceedings shall be private and confidential. By mutual consent of the participating parties, exceptions to the foregoing may be permitted.
- F. Conscientious efforts shall be made to process the grievance as rapidly as possible. The time limit specified at each step is the maximum. Attempts shall be made to expedite the process so that no grievance shall remain unresolved at the end of the school year.
 - 1. A decision rendered at any step during grievance procedure becomes final unless appealed within the time specified for the particular step.
 - 2. If a decision is not submitted within the time established for that step, an appeal may be taken directly to the next level.
 - 3. Time limits stipulated at each step may be modified by mutual agreement of the parties involved.
- G. No reprisal, discrimination, or reduction in status shall be invoked against any employee for having participated as a grievant, representative, conferee, or witness.

- H. All documents, communications, and records used in processing a grievance shall be filed separately from personnel files of the participants. This special file shall be maintained by the Office of the Personnel Director and shall be classified as confidential.
- I. During the course of grievance procedures, efforts will be made to minimize expenses to all participants. Therefore, the processing of grievances shall occur, insofar as circumstances permit, at times when the employee is not required to be on duty.
- J. Step 1: Within 20 work days from the occurrence of an event upon which the grievance is based or within 20 work days of knowledge thereof, the grievant shall provide written notification of the problem to the Personnel Director. The Personnel Director shall within 5 work days, arrange a meeting with the employee and any other affected individual, employee and/or employer (or designated representative of the employer) to discuss the grievance.
1. If the grievant fails to notify the Personnel Director of the matter within the allotted time, he/she shall be deemed to have waived the right to pursue grievance procedures.
 2. At the conference between the employee and Personnel Director there shall be a conscientious attempt to resolve the complaint without the necessity of appeal. It shall be the intent of the grievance policy to utilize formal grievance procedures only when informal fail to accomplish a satisfactory and equitable resolution of the problem.
- Within five work days of the conference with the grievant, the Personnel Director shall communicate a written decision to the employee.
- K. Step 2: If the grievant is dissatisfied with the verdict of the Personnel Director, and within five work days of the decision, he/she may submit a written appeal to the Personnel Commission.
1. The appeal shall contain the grievant's name, position, a clear and precise statement of the condition and circumstances responsible for instituting grievance procedures, course of action to date, including a summary of the decision reached at Step 1, and a proposed solution.
 2. The appeal shall also include a request for a hearing of the grievance by the Personnel Commission in open or closed session as preferred by the grievant. Such hearing shall be

conducted at either the first regularly scheduled meeting of the Commission following receipt of the appeal or at such other time as directed by the Commission which shall not be more than forty-five calendar days following receipt of the appeal.

The Personnel Commission shall render a written decision on the grievance within ten (10) work days of completion of the hearing. The Personnel Commission's decision shall be final.

Section 8.7 RESIGNATION

- A. Classified employee resignations shall normally be submitted in writing. The Superintendent or designee shall accept the resignation and shall affix an effective date.
- B. Absent any formal notice being submitted, an employee who fails to report for duty for a period of five consecutive work days without prior notification to his/her immediate supervisor may be deemed to have voluntarily resigned from his/her position.

Section 8.8 LAYOFFS

A. Order of Layoff

1. Determined by hours in a class plus higher classes.

Whenever a classified employee is laid off, the order of layoff shall be determined by length of service. The employee who has been employed the shortest time in the class, plus the higher classes, shall be laid off first. Re-employment shall be in the reverse order of layoff.

2. Computation of Seniority:

a. Creditable Hours:

- All hours in Paid status including summer assignments in the same class. Exclude hours for which employee received overtime compensation (1½) pay.
- Time spent on Military leave (computed on the employee's regular assignment).
- Time the employee was absent due to illness or injury for which he/she received sick leave and/or worker's compensation payments.

- Time spent in previous service if the break resulted from a layoff and the employee was subsequently re-employed from a valid re-employment list.
 - Time spent as a probationary or permanent employee who has been given a temporary or substitute reassignment to another class.
 - Time spent as a classified employee who resigned and was reinstated/reemployed by the schools within thirty-nine (39) months, shall retain all creditable hours of service prior to resignation, but not time during the break in service.
- b. Non-Creditable Hours:
- Time employee was on a no-paid leave of absence.
 - Time the employee was on a non-paid suspension.
 - Time served as a substitute or temporary employee not included in the classified service.
 - Time served as a substitute or short term employee prior to entering regular status.
3. Seniority Lists:
- a. In developing a seniority list for a class with full-time and part-time positions, the names of all persons in the class shall appear in order of seniority irrespective of percent of time worked.
- b. Class shall be determined by the salary range on the classified salary schedule(s) or by designated class on the confidential and management salary schedules.
- B. Procedures to be utilized in the event of layoff of permanent employees.
1. The names of permanent and probationary employees thus laid off shall be placed upon the reemployment list for the class from which they were laid off. Names on the reemployment list shall be in the relative order of seniority.
 2. Limited-term employees are not considered permanent or probationary and, therefore, may be terminated at the completion of the assignment without regard to the procedure set forth in this regulation.
 3. If two (2) or more employees subject to layoff have equal seniority, the determination as to whom shall be laid off first shall be made on the basis of the County Office of Education

hire date, with the employee hired first being retained, and if that is equal, then the determination shall be made by the Superintendent or designee.

4. Laid off employees are eligible for reemployment in the class from which laid off for thirty-nine (39) month period and shall be employed in the reverse order of layoff as vacancies become available. In addition, they shall have the right to apply for promotional positions as explained and provided in these rules.
5. Regular employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall be, at the employee's option, returned to a position in their former class. Such employees shall be retained on the reemployment list.
6. Subject to PERS regulations and availability, regular employees who have been employed at least five (5) years under Public Employees Retirement System and are fifty (50) years of age or older may elect to accept a service retirement in lieu of layoff, voluntary demotion, or reduction in assigned time. Such employees shall, prior to the effective date of the proposed layoff, complete and submit a form to the PERS provided by the Payroll department for this purpose. The employee shall then be placed on a thirty-nine (39) month reemployment list in accordance with this regulation. The Humboldt County Office of Education agrees that when an offer of employment is made to an eligible person retired under this regulation, and the Superintendent receives within seven (7) working days a written acceptance of the offer, the retired person shall be allowed sufficient time to terminate his/her status with PERS.
7. An employee who is laid off and is subsequently eligible for reemployment shall be notified in writing by the Humboldt County Office of Education of an opening. Such notice shall be sent by mail to the last known address given to the Personnel Office by the employee. In lieu of mail notice, the Personnel Office may elect to give notice by telephone or in person. If the position is refused, the Personnel Office will confirm such refusal by Certified letter to the employee. Former employees refusing reinstatement shall continue to remain on the reemployment eligibility list for the prescribed period under B.4 or B.6 above.
8. Vacation and compensatory time earned and unused at the time of layoff shall be computed and paid with the final warrant due the employee.

9. Employees shall be reemployed in the highest class available in accordance with their length of service in the class from which they were laid off, plus higher classes, but in no event does an employee have a right to employment in a higher class than the highest one in which they previously earned service.
10. Upon reemployment following layoff all seniority earned to and including the effective date of layoff shall be reinstated to the employee. Step placement on the salary schedule shall be the same as on the layoff date. Such leave hours earned and unused at the time of layoff shall be restored.

Section 8.9 PERSONNEL FILES

- A. Materials in an employee's personnel file which may affect the status of employment are available for the inspection of the employee; such material shall not include ratings, reports, or records which were:
 1. Obtained prior to employment of the employee;
 2. Prepared by examination committee members;
 3. Obtained in connection with a promotional examination.
- B. The employee shall have the right to inspect such material upon request. All request and review of materials shall be made when the employee is not in paid status.
- C. Whenever information is to be entered in an employee's file which is of a derogatory nature, the employee shall first be given written notice to review the information and comment within 10 work days. Such review shall take place during normal business hours and without loss of pay to the employee if required by employee.

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