

**635 APPOINTMENTS FROM ELIGIBILITY LISTS**

**Education Code Section(s)**

**88080.** (a) The commission shall prescribe and, amend, and interpret subject to this article, such rules as may be necessary to insure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness. The 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 governing board and that unit. The rules shall be binding upon the governing board, but shall not restrict the authority of the governing board provided pursuant to other sections of this code.

(b) No rule or amendment which would affect classified employees who are represented by a certified or recognized exclusive bargaining representative shall be adopted by the commission until the exclusive bargaining representative and the community college employer of the classified employees who would be affected have been given reasonable notice of the proposal.

**88081.** (a) The rules shall provide for the procedures to be followed by the governing board as they pertain to the classified service regarding applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, performance evaluations, public advertisement of examinations, rejection of unfit applicants without competition, and any other matters necessary to carry out the provisions and purposes of this article.

(b) With respect to those matters set forth in subdivision (a) which are a subject of negotiation under the provisions of Section 3543.2 of the Government Code, such rules as apply to each bargaining unit shall be in accordance with the negotiated agreement, if any, between the exclusive representative for that unit and the public school employer.

**88091.** (a) All vacancies in the classified service shall be filled pursuant to this article and the rules of the commission, from applicants on eligibility lists which, wherever practicable, as determined by the commission, shall be made up from promotional examinations, or appointments may be made by means of transfer, demotion, reinstatement, and reemployment in accordance with the rules of the commission. All applicants for promotional examinations shall have the required amount of service in classes designated by the commission or meet the minimum qualifications of education, training, experience, and length of service, which shall be determined by the commission to be appropriate for the class for which they have applied. Any promotional applicant who has served the required amount of time in a designated class or who meets the minimum qualifications for admission to a promotional examination shall be admitted to the examination. Applicants shall be placed on the eligibility lists in the order of their relative merit as determined by competitive examinations. The final scores of candidates shall be rounded to the nearest whole percent for all eligibles. All eligibles with the same percentage score will be considered as having the same rank. Appointments shall be made from the eligibles having the first three ranks on the list who are ready and willing to accept the position.

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(b) (1) Upon the request of a majority of the members of the governing board of a community college district, the commission may exempt two executive secretarial positions from the requirements of this section. Exemptions authorized under this subdivision shall be limited to one executive secretary position reporting directly to members of the governing board, and one executive secretary position reporting directly to the chancellor.

(2) Any person employed in an exempt executive secretarial position shall continue to be afforded all of the rights, benefits, and burdens of any other classified employee serving in the regular service of the district, except he or she shall not attain permanent status in an executive secretarial position. Positions of executive secretary shall be filled from an unranked list of eligible employees who have been found to be qualified for the positions as determined by the district chancellor or superintendent and determined by the personnel commission. Any person whose services in an executive secretarial position are discontinued for a cause other than a cause for disciplinary action specified in this code or in a rule of the commission shall have the right to return to a position in a classification he or she previously occupied or, if that classification no longer exists, in a similar classification, as determined by the commission. This subdivision shall apply only to the employees hired on or after January 1, 1988.

(c) (1) Upon the request of a majority of the members of the governing board of a community college district, the personnel commission may exempt designated senior classified administrative positions from the requirements of this section. A "senior classified administrative employee" means a classified employee who acts as the chief business, fiscal, facilities, or information technology adviser or administrator for the district chancellor or superintendent or a college president, as determined by the governing board and certified by the personnel commission.

(2) Any person employed in an administrative position exempted under this subdivision shall continue to be afforded all of the rights, benefits, and burdens of any other classified employee serving in the regular service of the district, except that he or she shall not attain permanent status in that administrative position. A vacancy in an administrative position that is exempted under this subdivision shall be filled from an unranked list of eligible persons who have been found to be qualified for the positions as determined by the district chancellor or superintendent and the personnel commission. Any person whose services in an administrative position exempted under this subdivision are discontinued for any reason other than for cause as specified in this **code** or in a rule of the personnel commission shall have the right to return to a position in a classification he or she previously occupied or, if that classification no longer exists, in a similar classification, as determined by the commission.

(3) This subdivision shall apply only to employees hired on or after January 1, 2001.

(d) Nothing contained in this section shall authorize the selection of eligible candidates in circumvention of the affirmative action programs of any community college district.

**88096.** Appointments may be made from other than the first two or three, as the case may be, applicants on the eligibility list when the ability to speak, read, or write a language in addition to English or possession of a valid driver's license is a requirement of the position to be filled. The recruitment bulletin announcing the examination shall indicate the special requirements which may be necessary for filling one or more of the positions in the class. Where such a position is to be filled, using the authority of this section, the appointment shall be made from among the highest two or three, as the case may be, applicants on the appropriate eligibility list who meet the special requirements and who are ready and willing to accept the position. If there are insufficient applicants who meet the special requirements, the commission shall certify the top applicant or applicants plus

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those applicants who meet the special requirements, not to exceed two or three candidates, as the case may be.

**88097.** Written notices concerning tests, vacancies, transfer opportunities, and other selections of shifts, positions, assignments, classifications, or locations shall be posted at all work locations of employees who may be affected not later than 15 working days prior to the closing date of filing appropriate applications, together with the normal use of newspapers and bulletins for public notice for open or promotional vacancies. Whenever the subject of these notices may affect a probationary or permanent classified employee who will not be reporting at his or her work location during periods when the employee is not normally required to work, such as Christmas, Easter, summer recesses, and other paid or unpaid leaves of absences, including vacations, and who has previously requested notification, the notices shall be mailed to the employee. However, the failure of an employee to receive a notice shall not invalidate any procedure, if, in fact, the notice was placed in the mail and postage paid.

This section shall not apply to any community college district that publishes and distributes to all work locations examination bulletins at least once each month, provided that records of employee requests for transfer and change of location are maintained and that the names of all candidates for transfer and change of location to a vacancy are certified to the appointing authority along with names of appropriate applicants from employment lists.

The personnel commission shall establish procedures for the maintenance of employee requests for transfer, change of location, change of shift, and notification of forthcoming examinations.

- A. Employment of persons from eligibility and other employment lists is subject to action by the Board of Trustees based upon the recommendations of the Chancellor and their designees.
- B. Regular appointments may be made from eligibility lists any time on or after the promulgation date of the eligibility lists provided that:
  - 1. the authorized field of competition for the examination was open only; or
  - 2. the examination is administered on a continuous basis as authorized by the Personnel Commission.
- C. No regular appointment from an eligibility list shall be effective until 10 working days after the establishment of the eligibility list with an authorized field of competition of promotional only or open and promotional except as provided in Paragraph B. 2 above.
- D. An eligible on a list for a class designated as executive, administrative, or supervisory, as defined in Rule 596, OVERTIME, shall be considered "ready and willing" if they:
  - 1. accept a job interview offer within 5 working days from the date the availability letter or electronic mail is sent or the availability telephone contact is made, and is
  - 2. are able to appear for a job interview within 5 working days after an availability contact is made, and is

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3. are willing to accept an offer of employment within 5 working days after an offer is made, and is
  4. are willing and able to report for work within a reasonable time period, which typically would be within 1 month from the date they are selected for the job.
- E. An eligible on a list for any other class shall be considered "ready and willing" if he or she:
1. accepts a job interview offer within 3 working days after the availability letter or electronic mail is sent or the availability telephone contact is made, and is
  2. able to appear for a job interview within the next 2 working days after an availability contact is made; and is
  3. willing to accept an offer of employment within 2 working days after an offer is made, and is
  4. willing and able to report for work within a reasonable time period, which typically would be within 10 working days from the date they are selected for the job.

Working day as used in this paragraph and paragraph D. shall be interpreted as any day except Saturday, Sunday, a holiday, or any other day (or portion thereof) the offices may be closed as authorized by the Board of Trustees.

In cases where an eligible's readiness and willingness, as outlined in paragraphs D. and E., comes into question, the Personnel Director may review the circumstances applicable to the particular case and determine an appropriate course of action.

- F. When an examination has been administered for a class, the final scores of all candidates shall be rounded to the nearest whole percent. All eligibles with the same percentage score after rounding will be considered as having the same rank. The Personnel Commission shall certify all eligibles in the highest three ranks who have made themselves available to a position in the applicable class. When there are less than three ranks that can be certified from the promotional eligibility list, the certification of eligibles shall be supplemented with the highest applicable ranks of the open eligibility list, if one exists for the same class, to make certification of three ranks possible. In addition to names certified in accordance with this paragraph, the names of all employees with approved transfer, voluntary demotion, reinstatement, return to former class, and change of location, basis, shift, status, class, and/or time requests for the class shall be certified simultaneously.

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- G. When names are certified from an eligibility list or eligibility lists, the appointing authority shall interview persons who have been certified and have accepted the offer of interview as follows:
1. All eligibles in the first rank of certified scores who accept the offer of interviews shall be interviewed.
  2. If there are less than three eligibles in the first rank of certified scores, all eligibles in the first and second rank of certified scores shall be interviewed.
  3. If there are less than three eligibles in the first and second rank of certified scores, all eligibles in the first, second, and third rank of certified scores shall be interviewed.

The provisions of this paragraph may be waived when the position to be filled is occupied by a reclassified incumbent and the employee is reachable on the eligibility list. Reclassified incumbents shall be noted on the eligibility list.

The provisions of this paragraph shall not apply to eligibility lists established for the job classifications of SFP Program Director, SPF Program Specialist, and SFP Program Technician. The appointing authority shall offer an interview opportunity to a minimum of three eligibles from the list who meet the special skillset requirements of the applicable SFP program.

- H. An eligible may refuse two offers of interview within the limits of the eligible's availability as to location and status and retain status on such list. After the third refusal, no additional offer is required. A record of all offers and refusals shall be maintained by the Personnel Commission.
- I. When an eligibility list for a class is scheduled to expire and there is a known vacancy which will occur within 90 calendar days after the scheduled expiration date, the Personnel Director may authorize advance appointment from the eligibility list.

The following factors will be considered when reviewing such request:

1. Existence of an active eligibility list.
  2. Number of eligibles remaining on the list.
  3. Effective date of anticipated vacancy.
  4. Potential saving of unnecessary examination effort and expense.
- J. When a division head or college president determines that the ability to speak, read, and/or write, a foreign language in addition to English, is a requirement of a position, they shall request designation of the position as requiring bilingual skills. Upon approval by the Personnel Commission, certification from the eligibility list shall occur as follows:

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1. The three eligibles with the highest ranks on the eligibility list who have indicated that they possess the specified special skills.
  2. If there are fewer than three eligibles who have the specified special skills, certification of eligibles with the special skills shall be supplemented, to make a certification of three possible, with the highest standing eligibles who do not possess the special qualifications.
  3. If there are no eligibles who have the specified special skills, certification shall be made from eligibles without the special skills in accordance with Paragraph F.
- K. Applicants shall be advised of the requirement to possess a valid California Driver's license in the job recruitment bulletin. Eligibles shall be required to self declare possession of a valid license on their employment application. Hiring authorities are responsible for insuring the possession of a valid license, if necessary for a specific position, at the time of hire and during the course of employment and to consider appropriate accommodations related to this requirement, if requested by an eligible.
- L. When a position previously determined to require a special requirement becomes vacant, the division head or college president shall indicate in the request for certification from the eligibility list whether or not the special requirement is to be continued. If the special requirement is to be continued, the position shall be filled in accordance with Paragraph J., above.