

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

518

LAW AND RULES

December 7, 1989

518 POSITIONS CLASSIFIED AS "RESTRICTED"

Education Code Section 88005

88005. **Nonacademic Positions Under Various Acts** (a) Positions not requiring certification qualifications created by a governing board of a school district under the Manpower Development and Training Act of 1962, the Economic Opportunity Act of 1965, or Section 11300 or Section 13650 of the Welfare and Institutions Code, any future federal or state legislative enactment, or any other special funding, and which are not a part of the regular school program shall, nevertheless, be a part of the classified service as established by Section 88003 or Section 88076 of this Code.

Persons employed in such positions shall be classified employees and shall enjoy all of the rights, burdens and benefits accorded other classified employees. Their selection and retention shall be made on the same basis as that of persons selected for positions that are a part of the regular school program.

(b) Notwithstanding the provision of subdivision (a) if specially funded positions are restricted to employment of persons in low income groups, from designated impoverished areas and other criteria which restricts the privilege of all citizens to compete for employment in such positions, all such positions shall, in addition to the regular class title, be classified as "restricted." Their selection and retention shall be made on the same basis as that of persons selected and retained in the positions that are part of the regular school program, except that persons employed in the following categories of restricted positions shall not be subject to the provisions of Section 88091 or 88092.

(a) The position of instructional aide, as defined in Section 88243.

(b) Any other position involving personal contacts with students or parents that is established to assist school-staff personnel responsible for school-community relations; educational support services for such areas as counseling, library, or health; or the correction or prevention of behavioral problems.

Persons employed in positions properly classified as "restricted" shall be classified employees for all purposes except:

CHANGES:

No changes in text.

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(1) They shall not be accorded employment permanency under Section 88013 or Section 88120 of the Education Code, whichever is applicable.

(2) They shall not acquire seniority credits for the purposes of Sections 88117 and 88127 of the Education Code or, in a district not having the merit (civil service) system, for the purposes of layoff or lack of work or lack of funds as may be established by rule of the governing board.

(3) The provisions of Sections 88106 and 88127 shall not apply to "restricted" employees.

(4) They shall not be eligible for promotion into the regular classified service or in districts that have adopted the merit system, shall not be subject to the provisions of Section 88061, until they have complied with the provisions of subdivision (c).

(c) At any time, after completion of six months of satisfactory service, a person serving in a "restricted" position shall be given the opportunity to take such qualifying examinations as are required for all other persons serving in the same class in the regular classified service. If such person satisfactorily completes the qualifying examination, regardless of final numerical listing on an eligibility list, he shall be accorded full rights, benefits and burdens of any other classified employee serving in the regular classified service. His service in the regular classified service shall be counted from the original date of employment in the "restricted" position and shall continue even though he continues to serve in a "restricted" position.

(d) This section shall apply to districts that have adopted the merit system in the same manner and effects as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

(e) It is the intent of the Legislature in enacting this section to clearly set forth that positions normally a part of the classified service are included therein regardless of the source of income to sustain such positions and to effectively implement specially funded programs intended to provide job opportunities for untrained and untrained and impoverished persons but to do so in a manner that will not be disruptive nor detrimental to the normal employment procedures relating to classified school service.

CHANGES:

No changes in text.

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Education Code Section 88079

88079. **"Restricted" Employees Classification** If the governing board of any community college district establishes positions and restricts initial appointment of new employees to mentally, physically, or developmentally disabled persons, then such positions shall, in addition to the regular class title, be classified as "restricted." The positions shall be part of the classified service and persons so employed shall be classified employees for all purposes except that they shall not be subject to the provisions of Section 88091 or 88092, and that they shall not acquire permanent status or seniority credit and shall not be eligible for promotion into the regular classified service until they have complied with the provisions of subdivision (c) of Section 88005. *

***Note Legislative error. Education Code refers to Section 88003**

- A. Employees of the District employed under Section 88005 and 88079 of the Education Code are governed by the rules of the Personnel Commission and shall enjoy all of the rights, burdens, and benefits accorded other classified employees, except that "restricted" employees shall not be accorded any of the benefits of permanency.
- B. "Restricted" classes may be established by the Commission for the purpose of employing mentally, physically, or developmentally disabled persons or when the specially funded program agreement between the District and the appropriate granting agency states that, in order for the program to be carried out effectively, persons must be hired from low income groups, from designated impoverished areas, or must meet other criteria established by the granting agency, which restrict the privilege of all citizens to compete for employment in "restricted" positions. Paragraph D. of Rule 642 is not applicable to eligibility lists established pursuant to Education Code 88005 and 88079.

No person shall be employed in a "restricted" class until the proposed appointment, accompanied by certification on the appropriate form and satisfactory evidence that the person to be employed in a "restricted" class meets the requirements for such class, has been approved by the Personnel Commission.

CHANGES:

Incorporates legislative changes to Education Code Section 88079 that pertains to the employment of mentally, physically, or developmentally disabled persons. Amends Paragraph B. to include broader category of persons eligible for employment in a "Restricted" class, and adds new sub-paragraph to paragraph B. relating to appointment requirements.

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- C. At any time after an employee serving in a "restricted" position has completed 130 days of paid, satisfactory service in a "restricted" class, the employee and his/her position shall be reclassified by 80.6 procedure to the counterpart unrestricted class provided that:
1. The employee satisfactorily completes a qualifying examination for the counterpart unrestricted class which is the same examination as is required for all other persons; or
 2. The employee was appointed to a "restricted" position from an eligibility list for a counterpart unrestricted class; or
 3. The employee's name appears on a current eligibility list for a counterpart unrestricted class.

An employee who meets the aforementioned requirements shall be reclassified with his/her position regardless of his/her ranking on the eligibility list. The employee shall be accorded the full rights, benefits, and burdens of any other classified, permanent employee serving in the regular classified service. Seniority credit shall be counted from the original date of employment in the "restricted" position.

CHANGES:

No changes to text.