

**762 EMPLOYMENT OF PERMANENT EMPLOYEES AFTER UNSUCCESSFUL  
PROBATIONARY PERIOD IN A PROMOTIONAL POSITION**

**Education Code Sections**

**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.

**88120.** (a) A person who has served an initial probationary period in a class not to exceed six months or 130 days of paid service, whichever is longer, as prescribed by the rules of the commission shall be deemed to be in the permanent classified service, except that the commission may establish a probationary period in a class not to exceed one year for classes designated by the commission as executive, administrative, or police classes. To receive permanent classified service status, each full-time peace officer and public

LOS ANGELES COMMUNITY COLLEGE DISTRICT  
PERSONNEL COMMISSION

762

LAW AND RULES

January 31, 2024

safety dispatcher employed by a community college district operating a dispatch center certified by the Commission on Peace Officer Standards and Training shall serve in a probationary status for a period not less than one year from their date of appointment to that full-time position.

(b) An employee shall not attain permanent status in the classified service until that employee has completed a probationary period in a class. A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional classification shall be employed in the position from which the employee was promoted. In any case, the rules of the commission may provide for the exclusion of time while employees are on a leave of absence. The rights of appeal from disciplinary action before attainment of permanent status in the classified service shall be in accordance with Section 88124.

(c) To the extent that this section, as amended by Assembly Bill 275 of the 2021–22 Regular Session, conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2022, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the changes made to this section by Assembly Bill 275 of the 2021–22 Regular Session shall not apply to the community college district until expiration or renewal of that collective bargaining agreement.

(d) To the extent that this section, as amended by Senate Bill 874 of the 2021–22 Regular Session, conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2023, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the changes made to this section by Senate Bill 874 of the 2021–22 Regular Session shall not apply to the community college district until expiration or renewal of that collective bargaining agreement.

- A. A permanent classified employee who accepts a promotion to a regular classified position and subsequently fails to complete the probationary period in the higher class has the following placement rights in the priority order identified below:
1. Rights to be assigned to an existing vacancy in the class from which the employee was most recently promoted.
  2. Rights to displace in the class from which the employee was most recently promoted, provided that they have more seniority than the employee with the least seniority in the applicable class.

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LOS ANGELES COMMUNITY COLLEGE DISTRICT  
PERSONNEL COMMISSION

762

LAW AND RULES

January 31, 2024

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- B. The permanent classified employee also has an option to be assigned to a vacancy in any other class in which they held regular status.

Notwithstanding the option noted above and the placement rights described under paragraph A., consideration shall be given to the employee's request for placement in a vacant position in any lower class for which the employee meets the established minimum qualifications.

- C. The provisions of Rule 701, PROBATIONARY AND PERMANENT STATUS, shall apply in cases where the employee has not acquired permanent status in the lower class to which they are placed in accordance with this rule.