

771 REINSTATEMENT

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.

88128. Any permanent classified employee of a community college district, who voluntarily resigns from his or her permanent classified position, may be reinstated or reemployed by the governing board of the district, within 39 months after the employee's last day of paid service and without further competitive examination, to a position in his or her former classification as a permanent or limited-term employee, or as a permanent or limited-term employee in a related lower class or a lower class in which the employee formerly had permanent status.

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LAW AND RULES

If the governing board elects to reinstate or reemploy a person as a permanent employee under this section, it shall disregard the break in service of the employee and classify him or her as, and restore to the employee all of the rights, benefits and burdens of, a permanent employee in the class to which he or she is reinstated or reemployed.

- A. The provisions of this rule shall apply to a permanent classified employee who has resigned while in good standing. Such former employee may, upon the recommendation of the division head or college president under whom they last served, be reinstated as a permanent or limited-term employee without further competitive examination to a position in their former class, in a related lower class, or a lower class in which they formerly had permanent status.

If the permanent classified employee has resigned while in good standing from a position in the classes of SFP Program Director, SFP Program Specialist, SFP Program Technician, or SFP Program Office Assistant, they may, upon the recommendation of the division head or college president under whom they last served, be reinstated as a permanent or limited-term employee without further competitive examination in an equal or lower SFP job classification.

In accordance with Rule 519, SENIOR ADMINISTRATIVE POSITIONS AND EMPLOYEES, employees hired into a senior classified administrative position on or after January 1, 2001, are excluded from the provisions of this rule. Such employees do not obtain permanent status in such a position.

- B. Reinstatement shall not supersede the right of any person to reemployment pursuant to Rule 740, LAYOFF AND REEMPLOYMENT.
- C. A person who is reinstated shall be compensated as follows:
1. A person who is reinstated in the class from which they resigned shall be placed on:
 - a. The flat rate of the class, if applicable, or
 - b. The step of the schedule attained at the time of resignation, or
 - c. The hiring step for the class, whichever is higher.
 2. A person who is reinstated in a class lower than that from which they resigned shall be placed on:
 - a. The flat rate of the class, if applicable, or
 - b. The step of the schedule that provides a rate equal to or next below the rate they would be entitled to if reinstated in the former class, or
 - c. The hiring step for the class, whichever is higher.

In no case shall the rate assigned exceed the maximum rate for the class or include step advancements the person would have earned if they remained employed with the District.

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- D. A person reinstated as a permanent employee in a lower class shall be entitled to the privileges extended in Rule 745, VOLUNTARY DEMOTION OR REDUCTION IN STATUS OR ASSIGNED TIME.
- E. A person reinstated as a limited-term employee shall be granted the rights and privileges extended in Rule 710, VOLUNTARY REDUCTION TO SUBSTITUTE OR RELIEF STATUS.
- F. The lapse of 39 months after the last day for which salary was received as a permanent employee voids any privileges gained under this rule except as provided in Paragraph G. below.
- G. The period for requesting reinstatement may be extended if a former regular classified employee, who resigned from the District to enter into military service and was subsequently separated from the military under conditions other than dishonorable, submits a request to return in accordance with the provisions of Rule 820, MILITARY LEAVE OF ABSENCE. Such extension shall allow the employee to perform military service for a maximum period of five years in accordance with the applicable provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA). Certain types of service in the uniformed services, which are identified in the code provision 1002.103 of USERRA, do not count against the five-year service limit.
- H. A person reinstated as a limited-term employee does not relinquish their privilege of returning to permanent employment within the 39-month period or the applicable time period outlined in USERRA for persons returning from military service.
- I. Whenever any former employee of the District who held permanent status at the time of their resignation is reinstated as a permanent employee, the governing board of the District shall disregard the break in service of said employee and restore all the rights, benefits, and burdens of a permanent employee.
- J. A former employee who has been reinstated in accordance with this rule may request that their name be restored to its proper rank on any promotional eligibility list that is still in effect.