

## CHAPTER 11

### TRANSFER OF EMPLOYEES

#### BARGAINING UNIT MEMBERS REFER TO CONTRACT

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#### 11.1 TRANSFER

11.1.A DEFINITION OF VACANCY: For purposes of this Rule, a vacancy shall occur when a new position is created or an existing position is vacated by incumbent of a position who transfers to a new position or terminates employment with the District.

DEFINITION OF TRANSFER:

1. A transfer is a relocation of an employee between departments, job sites or to a related classification within the same salary range.

REFERENCE: Education Code Sections 88080 and 88081

11.1.B VOLUNTARY TRANSFER: Transfer requests may be granted at any time, subject to the availability of positions and the qualifications of the applicant. Employees who have requested a transfer shall be given first consideration for a transfer based upon, but not limited to seniority, job performance, qualifications, and the needs of the District.

1. Denial of a Transfer: An employee denied transfer may request, in writing, and shall be granted a meeting with the administrator who made the decision to deny the transfer. Following such meeting(s), an employee may request and shall receive written rationale for the denial of the transfer request. A copy of the written response shall become part of the employee's personnel file.

REFERENCE: Education Code Sections 88080 and 88081

11.1.C ADMINISTRATIVE ASSIGNMENT (INVOLUNTARY TRANSFER): The President/Superintendent or designee, subject to the approval of the Board of Trustees, retains the right in accordance with these Rules to transfer staff at any time such assignment is in the best interest of the District. The employee shall be provided an official copy of the transfer notice within five (5) working days. Transfer shall be made for work related reasons and not for punitive measures.

1. Conference To Discuss Involuntary Transfer: An employee who has been involuntarily transferred may, within five (5) working days after receiving written notification, request and shall be granted a conference with the appropriate administrator to discuss the administrative reassignment. An employee may also request a

written rationale for the administrative assignment and the benefits that would accrue to the District as a result of the transfer.

2. A probationary employee administratively transferred to a position in his/her class shall acquire permanent status in the class upon completion of the balance of the probationary period.
3. An employee in an initial probationary period with the District may not be transferred to a position in a related class, but must be appointed from an appropriate eligibility list.

REFERENCE: Education Code Sections 88080 and 88081

11.1.D. TRANSFER RELATED CLASS: An employee may request voluntary transfer or be administratively assigned from his/her position to another position in a related class. The determination of whether classes are sufficiently related to permit transfer between them shall be made by the Director of Human Resources. The following factors shall be considered in determining whether classes are sufficiently related: 1) duties, 2) minimum qualifications, and 3) examination content. The extent to which two classes are comparable may depend on additional factors deemed appropriate by the Personnel Commission.

1. Approval of the request to transfer an employee to a position to a related class at the same salary level may be given by the Personnel Commission upon the request of the manager(s) indicating the circumstances or changes in duties that necessitate the transfer.

REFERENCE: Education Code Sections 88080 and 88081

11.1.E. PERIOD FOR TRANSFER: A permanent employee who transfers to a position from a class in which the employee has not previously completed a probationary period shall be considered probationary in the new class for the standard probationary period outlined in Chapter 9.3.A of these Rules. At any time during this probationary period, the employee may be returned (transferred) to his/her former class without the right of appeal.

REFERENCE: Education Code Sections 88080 and 88081

11.1.F. NO ADVERSE EFFECT FROM TRANSFERS: A transfer shall not change the employee's range and step placement on the salary schedule but may not exceed the maximum of salary of the class to which he/she is transferred, salary increment date, accumulated leave and vacation credit, or otherwise adversely affect the employee's rights as provided in these Rules.

REFERENCE: Education Code Sections 88080 and 88081

11.1.G SENIORITY CREDIT: Transfers shall have no adverse impact upon the employee's seniority. When transfers are between positions in the same class, the employee shall retain his/her full seniority in that class.

1. An employee transferred to a position in a related class at the same level shall not transfer any seniority credit earned in the former class. If the transfer is to a related lower class, the seniority in the former class applies to the lower class. The inclusion of the seniority at the lower related class is because seniority is based on service in class plus higher class.

REFERENCE: Education Code Sections 88080 and 88081

11.1.H POSTING OF VACANCY NOTICES: Vacancy notices shall be distributed for all vacancies. In such instances, the vacancy notice will be posted pursuant to the procedures outlined in Chapter 5.1.

REFERENCE: Education Code Sections 88080 and 88081

11.1.I SUBMISSION FOR REQUEST FOR TRANSFER: An employee may request a transfer to a vacant position by submitting a request for transfer on the approved form to the Personnel Commission Office no later than 9:00 a.m. on the day of scheduled interviews.

REFERENCE: Education Code Sections 88080 and 88081

11.1.J CERTIFICATION OF NAMES TO INTERVIEW: The Director of Human Resources shall maintain a transfer and reinstatement list. Whenever the appointing authority requests an eligibility list to fill an existing vacancy in a classification, the Director of Human Resources shall also submit the appropriate transfer and reinstatement list (if any). The appointing authority may fill a vacant position by either selection from the transfer and reinstatement list or eligibility list.

1. The manager shall interview all qualified employees requesting a transfer.
2. No obligation shall exist to fill a position by transfer rather than by other methods of appointment.
3. Initial probationary employees are not eligible to request voluntary transfer except under unusual circumstances and with concurrence of their immediate employees.
4. It is the employee's responsibility to notify his/her supervisor of request for transfer prior to the interview.

5. The effective date of transfer must be approved by the managers involved.

REFERENCE: Education Code Sections 88080 and 88081

11.1.K APPEAL RIGHTS: An employee may utilize the personnel commission complaint procedure if the employee believes that the procedure for transfer has not been followed in accordance with these Rules. The complaint procedure shall not be available to challenge the District's right to transfer or deny a transfer in accordance with these Rules.

REFERENCE: Education Code Sections 88080 and 88081

## 11.2 DEMOTIONS

11.2.A VOLUNTARY DEMOTION: A permanent employee may request a voluntary demotion to a vacant position in a class with a lower maximum salary rate, provided that the employee has previously achieved permanent status in that class or, the request for demotion is to a related class in the same job series as defined by the Personnel Commission. Demotion requests shall be in accordance with Chapter 11.1.J.

1. Salary placement for employees who demote to a class with a lower maximum salary rate shall be in accordance with these Rules.
2. Request for transfers to a lower class related not in the same series, is subject to review by the Personnel Commission.
3. Voluntary demotion is available to a probationary employee only in cases when he/she would otherwise be laid off for lack of work or funds.
4. The employee shall retain his/her anniversary date.

11.2.B INVOLUNTARY DEMOTION: An involuntary demotion is a disciplinary action and, as such, is subject to the disciplinary procedures in these Rules and Regulations.

1. A permanent employee who has been promoted or reclassified to a higher class, or transferred to a new class, may be involuntarily returned to his/her former class during the probationary period due to unsatisfactory work performance; pursuant to the disciplinary procedures in the Rules and Regulations.
2. Salary placement for employees who are involuntarily demoted shall be in accordance with these Rules and Regulations.

REFERENCE: Education Code Section 88091

11.3 RESTORATIONS

11.3.A RESTORATION OF FORMER EMPLOYEE: A former permanent employee who resigns in good standing may be reinstated to a vacant position in his/her former class and status within thirty-nine (39) months of the last date of his/her paid service without further competitive examination. Resignation in good standing shall be determined by the Personnel Commission. In addition, the former employee may be reemployed to a vacant position in a lower-related class if qualified, as determined and approved by the Personnel Commission, or in a limited-term status in the same or lower class. Such employment actions are discretionary with the appointing authority.

REFERENCE: Education Code Sections 88080, 88081 and 88128

11.3.B RESTORATION OF CURRENT EMPLOYEE TO FORMER CLASS: An employee who has taken a voluntary demotion may be restored to a vacant position in his/her former class or to a vacant position in a related lower class as determined and approved by the Personnel Commission within thirty-nine (39) months after demotion. Except for demotion(s) taken in lieu of layoff which are covered by the layoff provisions of these Rules, restoration is discretionary with the appointing authority.

REFERENCE: Education Code Sections 88080, 88081 and 88298

11.3.C EFFECTS OF REINSTATEMENT: Reinstatement or reemployment of a current or former employee as a permanent employee shall have the following effects:

1. A former employee would be restored to the former step in the salary range for the class, or if reemployed in a lower-related class, to the rate closest to that of the step to which he/she would be assigned if the former employee were reinstated to his/her former class.
2. A current employee being reinstated to a former higher class would be placed at the salary range of the higher class and then to the step required in these Rules if the employee was receiving a promotion.
3. The former employee would receive restoration of accumulated sick leave, eligibility for vacation allowance, seniority and other privileges which he/she had acquired as of the date of separation.
4. The former employee would receive restoration of his/her former anniversary date deducting time away from the District and without step-advancement credit for the off-duty period.

5. The former employee would receive restoration of any prior longevity steps granted prior to resigning, without longevity step-advancement credit for the off-duty period.
6. The former employee would receive restoration of all rights, benefits, and burdens of a permanent employee in the class to which restored.

REFERENCE: Education Code Sections 88080, 88081 and 88128

#### 11.4 MEDICAL REASSIGNMENT

11.4.A. GENERAL POLICY: Whenever a permanent classified employee of the District becomes unable to perform any or all of the essential functions/duties normally assigned to his/her position (whether such incapacity is permanent or of a temporary duration) because of illness or injury, the District shall consider the possibility of making adjustments in the employee's regular work assignment to accommodate the disability, or consider (if necessary) the possibility of assigning totally new duties and responsibilities to such employee; pursuant to and in accordance with these rules and regulations.

- REFERENCES:
1. Education Code Sections 88080, 88081 and 88098
  2. Americans with Disabilities Act of 1990,  
42 U.S.C. 12101 et seq
  3. The Rehabilitation Act of 1973

11.4.B. DISABILITIES OF A TEMPORARY NATURE: Whenever a permanent employee of the District is temporarily unable to perform the essential functions/ assigned duties of his/her position, the District shall determine whether or not the duties of the employee's position can be altered to reasonably accommodate his/her temporary disability; provided that:

1. A state-licensed physician has determined that the employee is unable to perform any or all of his/her customary duties and responsibilities.
2. The possibility of altering the employee's essential functions/duties has been discussed with the employee's immediate supervisor.
3. The proposed modification of essential functions/duties and responsibilities have been reported to the Director of Human Resources for possible study.
4. The proposed modification of essential functions/duties and responsibilities have the approval of the Director of Human Resources.

5. Unless approved by the Personnel Commission, the alteration or modification of the duties and responsibilities of a position shall not exceed sixty (60) working days. With the approval of the Personnel Commission, this period of time may be extended to a maximum of one-hundred-twenty (120) working days.

REFERENCES

1. Education Code Sections 88080, 88081 and 88098
2. Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq

11.4.C.

PERMANENT DISABILITIES: Should a classified employee become permanently unable to perform the essential functions / duties and responsibilities of his/her position, the District may permanently modify the duties and responsibilities of such employee, if possible, to reasonably accommodate the disability or to assign totally new duties and responsibilities to the person if necessary; provided that:

1. The extent of the employee's working limitations and the duration of disability have been determined by a state-licensed physician designated or approved by the Personnel Commission.
2. The proposed modification of the existing essential functions/duties and responsibilities or a complete listing of all of the proposed new essential functions/duties and responsibilities has been presented to the Director of Human Resources for purposes of classification.
3. If the assignment of the employee is to an existing position or to a newly-created position in an existing, less demanding classification, with an equal or lower maximum salary rate, such assignment shall require:
  - (a) The acceptance or approval of the employee.
  - (b) The approval of the Personnel Commission.
  - (c) That the employee to be assigned meets the minimum qualifications for the new class at the time of demotion or transfer.
  - (d) In the event that the reassignment is to a position in a classification with a lower maximum salary rate than the person's regular class, the employee shall be placed on the new salary range in accordance with these rules and regulations. (See Chapter 18 on Compensation and Pay Practices) He/she shall retain his/her anniversary date.

4. If the assignment of the employee is to a higher level position or class (having a higher maximum salary rate), such assignment or reassignment shall require:
- (a) That the position has been appropriately classified.
  - (b) The acceptance or approval of the employee.
  - (c) That the employee meets the minimum qualifications for the position in the higher class.
  - (d) The approval of the Personnel Commission.
  - (e) That the assignment of the employee shall be considered a provisional appointment, and the employee shall receive no additional salary benefit (beyond the salary rate he/she would have earned in his/her regular class) from such assignment/reassignment until such time as the employee can be appointed to the higher class in accordance with all rules and procedures on eligibility and appointment.

- REFERENCES:
- 1. Education Code Sections 88080, 88081 and 88098
  - 2. Americans with Disabilities Act of 1990, 42 U.S.C.12101 et seq
  - 3. The Rehabilitation Act of 1973

11.4.D

EFFECT OF EMPLOYEE'S ASSIGNMENT/REASSIGNMENT REFUSAL:  
An employee who becomes unable to perform any or all of the duties and responsibilities of his/her position (whether such incapacity is permanent or of a temporary duration) because of illness or injury may refuse assignment or reassignment to other classes of positions without effect upon his/her rights under sick leave provisions established by law or these rules and regulations. However, once refused, the District is under no obligation to renew such offers or to make any alternative offers.

- REFERENCES: Education Code Sections 88080, 88081 and 88098