

# The Merit System in California Community College Districts



**North Orange County Community College District**  
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# The Personnel Commission – A Historical Perspective

- Close cousin of the California State Personnel Board
- Designed to eliminate patronage as basis for selection of government employees
- Introduced into the public school/community college arena in 1935 (Los Angeles Unified School District) through Assembly Bill 999 (the “Merit System Act”)
- Currently in place in approximately 100 school districts/county offices of education and 5 community college districts

# The Personnel Commission – A Historical Perspective cont'd

- Education Code sections 88050, *et seq.*
- Applies to all classified employees, including management, supervisory and confidential employees
- Authority of Personnel Commission defined by law and practice, including:
  - Recruitment and Selection
  - Classification of Positions
  - Fixing of Job Duties
  - Appellate Review of Disciplinary Action

# The Personnel Commission – Points of Interest

- Creation/Implementation of the Merit System
- Rule Making Authority of the Personnel Commission
- Overlapping Authority of Board of Trustees and Personnel Commission
- Collective Bargaining under Educational Employment Relations Act vs. Rule Making Authority of the Personnel Commission
- Budget Issues and Dispute Resolution

# The Personnel Commission – Creation / Implementation

- Classified employees submit a request for a merit system election (EC 88051)
- Within 120 days of the request, the Board of Trustees is required to:
  - Present the pros and cons of a merit system;
  - Hold at least one meeting to discuss the issue;
  - Conduct a secret ballot election; and
  - Certify election results
- If election is successful, all of the provisions of the merit system become fully effective upon appointment of at least two members of the personnel commission (EC 88052)

# The Personnel Commission – Makeup

- Typically three members: one appointed by the Board, one appointed by the classified employees, and the third appointed by the first two (EC 88066)
  - This process takes approximately 60 days to complete
  - If the first two appointees cannot agree on the third appointee, then the Chancellor of the California Community Colleges makes the appointment
- Personnel Commission Director
- Personnel Commission staff

# The Personnel Commission – Rule Making Authority

- “The commission shall prescribe, 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.” (EC 88080(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 job 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.” (EC 88081(a))

# The Personnel Commission – Rule Making Authority cont'd

- Education Code section 88080:

“The rules [of the Commission] 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.*”

“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 public school employer of the classified employees who would be affected have been giving reasonable notice of the proposal.”

# The Personnel Commission – Overlapping Authority

Areas of overlap between Personnel Commission and Board of Trustees:

- **(1) Hiring**
  - The selection of employees from a list of qualified (eligible) candidates
- **(2) Elimination of Positions**
  - The implementation of a layoff
- **(3) Salary and Benefits**
  - The setting of salaries and benefits
- **(4) Discipline**
  - The demotion, suspension or dismissal of permanent employees

# The Personnel Commission – Overlapping Authority cont'd

Areas of overlap (continued):

- **(5) Supervision, Evaluation, and Training**
  - The direction and supervision of classified employee work
- **(6) Reclassification**
  - The reclassification of a classification or position
- **(7) Qualifications**
  - The establishment of minimum qualification requirements

# The Personnel Commission – Overlapping Authority cont'd

- Hiring Employees
  - Only the District has the authority to create positions, determine staffing levels, and ultimately hire candidates
  - The Commission undertakes the recruitment process, including job postings, competitive examinations, and the creation of eligibility lists

# The Personnel Commission – Overlapping Authority cont'd

- Hiring Employees

- “All vacancies in the classified service shall be filled pursuant to this article and the rules of the commission, from applicants on eligibility lists . . . .” (EC 88091)
- Eligibility lists created through testing and ranking procedures of the Commission
- District must select from eligibility lists with few exceptions

- Layoffs

- Only the Board has the authority to implement a layoff

# The Personnel Commission – Overlapping Authority cont'd

- Salary and Benefits
  - The Commission recommends salary schedules to the Board, and the Board approves, amends, and rejects the recommendations. (EC 88087)
  - The Board has authority to set benefits, subject to negotiation with the exclusive representative
  - The Commission has authority to determine the relationship between salary hierarchies within job classifications

# The Personnel Commission – Overlapping Authority cont'd

- Discipline

- “The rules shall provide for the procedures to be followed by the governing board as they pertain to the classified service regarding ... demotions ... dismissals.” (EC 88081)
- “No person in the permanent classified service shall be demoted or removed except for reasonable cause designated by rule of the commission as detrimental to the efficiency of the service.” (EC 88121)
- “For reasonable causes, an employee may be suspended without pay for not more than 30 days, except as provided in this section, or may be demoted or dismissed.” (EC 88123)
- Provisions within the collective bargaining agreement take precedence over the Commission’s rules and regulations

# The Personnel Commission – Overlapping Authority cont'd

- Discipline
  - “[W]e observe that the power to employ, suspend, demote and dismiss merit system classified employees is vested in the governing board of each district.”
  - This power is “vested solely in the governing board.”
  - The “Commission’s jurisdiction [is] appellate in nature and limited to reviewing prior board action.”

*(California School Employees Association v. Personnel Commission (1970)  
3 Cal.3d 139, 143.)*

# The Personnel Commission – Overlapping Authority cont'd

- Reclassification
  - The Commission has the authority to order and approve the reclassification of a classification or a position
  - Reclassification must be based on a “gradual accretion of duties”, rather than a “sudden change” caused by reorganization or assignment of new duties or responsibilities (EC 88104)
  - The Commission must give the Board and the exclusive representative of affected positions “reasonable notice” before reclassifying (EC 88104.5)
  - Reclassification is currently covered by the collective bargaining agreement between the District and CSEA at Article 18

# The Personnel Commission – Overlapping Authority cont'd

- Qualifications
  - The Commission exercises authority to establish minimum qualification requirements for newly-created positions, following recommendations received from the Board (EC 88095)

# The Personnel Commission – Collective Bargaining vs. Rules

- The Commission has the authority to develop rules and regulations governing the classified service, limited to specified subjects (EC 88080, 88081)

# The Personnel Commission – Collective Bargaining vs. Rules cont'd

- Education Code section 88080:
  - “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 public school employer of the classified employees who would be affected have been given reasonable notice of the proposal.”
- Education Code section 88087:
  - “The commission shall recommend to the governing board salary schedules for the classified service. The governing board may approve, amend, or reject these recommendations.”

# The Personnel Commission – Collective Bargaining vs. Rules cont'd

- Government Code section 3543.2:
  - “The scope of representation shall be limited to matters relating to wages, hours of employment, and other terms and conditions of employment.”
- Education Code section 88081(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.”

# The Personnel Commission – Budget Issues and Dispute Resolution

- “The commission shall prepare an annual budget for its own office which, upon approval of the county superintendent of schools, shall be included by the governing board in the regular budget of the community college district.” (EC 88073)

# The Personnel Commission – Budget Issues and Dispute Res. Cont'd

- “If the county superintendent of schools proposes to reject the budget as submitted by the commission, he shall, within 30 days after the commission’s submission of the budget, hold a public hearing on the proposed rejection within the affected district.” (EC 88073)
- “He may after such public hearing either reject, or, with the concurrence of the commission, amend the proposed budget. In the absence of agreement between the personnel commission and the county superintendent, the budget of the preceding year shall determine the amount of the new budget.” (EC 88073)

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Question & Answer  
Session

# Thank You

For questions or comments, please contact:

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