

**LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION**

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LAW AND RULES

November 29, 2023

600 REJECTION OF APPLICANTS, CANDIDATES, AND ELIGIBLES

Education Code Sections

88022. No person shall be employed or retained in employment by a community college district who has been convicted of any sex offense as defined in Section 87010 or controlled substance offense as defined in Section 87011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him or her are dismissed, this section does not prohibit his or her employment thereafter.

Further, the governing board of a community college district may employ a person convicted of a controlled substance offense if the governing board of the district determines, from the evidence presented, that the person has been rehabilitated for at least five years.

The governing board shall determine the type and manner of presentation of the evidence, and the determination of the governing board as to whether or not the person has been rehabilitated is final.

88023. No person shall be employed or retained in employment by a community college district who has been determined to be a sexual psychopath, as defined in Section 6300 of the Welfare and Institutions Code or under similar provisions of law of any other state. If, however, such a determination is reversed and the person is determined not to be a sexual psychopath in a new proceeding, or the proceeding to determine whether he or she is a sexual psychopath is dismissed, this section does not prohibit his or her employment thereafter.

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.

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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.

88130. The commission may conduct hearings, subpoena witnesses, require the production of records or information pertinent to investigation, and may administer oaths. It may, at will, inspect any records of the governing board that may be necessary to satisfy itself that the procedures prescribed by the commission have been complied with. Hearings may be held by the commission on any subject to which its authority may extend as described in this article.

88131. The commission may authorize a hearing officer or other representative to conduct any hearing or investigation which the commission itself is authorized by this article to conduct. Any such authorized person conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. The commission may instruct such authorized representative to present findings or recommendations. The commission may accept, reject or amend any of the findings or recommendations of the said authorized representative. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation or upon the results of such supplementary hearing or investigation as the commission may order.

The commission may employ by contract or as professional experts or otherwise any such hearing officers or other representatives and may adopt and amend such rules and procedures as may be necessary to effectuate this section.

88136. Any person who willfully, or through culpable negligence, violates this article is guilty of a misdemeanor. It is also unlawful for any person to do any of the following:

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(a) Willfully, by himself or herself or in cooperation with another person, to defeat, deceive, or obstruct any person with respect to his or her right of examination, application, or employment under this article or commission rule.

(b) Willfully and falsely, to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under this article or commission rule, or to aid in so doing, or to make any false representation concerning the same or the person examined.

(c) Willfully, to furnish to any person any special or secret information regarding contents of an examination for the purpose of either improving or injuring the prospects or chances of any person examined, or to be examined under this article or commission rule.

Definitions

- A. Applicant is defined to mean any person who submits an application to take an examination with the Los Angeles Community College District.
- B. Candidate is defined to mean any person who has taken one or more parts of an examination with the Los Angeles Community College District.
- C. Eligible is defined to mean any person whose name has been placed on an eligibility list for the Los Angeles Community College District after successful completion of all parts of an applicable examination. For the purpose of this rule, a reemployment list, as defined in Rule 659, ORDER OF PRECEDENCE IN CERTIFICATION FOR FILLING VACANCIES, shall not be considered an eligibility list. Procedures to be followed in reemployment are described in Rule 740, LAYOFF AND REEMPLOYMENT.
- D. Rejection, is defined to mean:
 - 1. refusal to accept an application or examine an applicant or candidate; or
 - 2. removal of an eligible's name from an existing eligibility list or substitute/relief pool list.

Reasons for Rejection

- E. Applicants, candidates, and eligibles may be rejected for any of the following reasons:
 - 1. Health conditions which would preclude an eligible from satisfactorily and safely performing the essential duties of the position classification.
 - 2. Failure to comply with the applicable provisions of Article XX, Section 3 of the Constitution of the State of California.

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3. Any person who violates provisions of the merit system as provided for in Education Code Section 88136.
 4. Any person who would be precluded from employment under the provisions of Education Code Sections 88022, employment after conviction of sex offense or controlled substance offense; rehabilitated controlled substance offender, and 88023, employment of sexual psychopath.
 5. Making a false statement or omitting a statement as to any material fact on an application for employment or related documents.
 6. Practicing any deception or fraud in connection with an examination or to secure employment.
 7. Discourteous, abusive, or threatening language or behavior directed toward raters, applicants, and/or examination staff.
 8. Dismissal from a previous employment for cause.
 9. Failure to meet District standards regarding conviction for a criminal offense.
 10. Negative information obtained during a reference check with a current or previous employer related to job performance or work habits or failure to pass an authorized comprehensive background investigation.
 11. Discharge other than honorable from the armed forces of the United States.
 12. A record of unsatisfactory service or disciplinary action with the Los Angeles Community College District.
 13. Debarment by the District or other public agency.
 14. Failure to complete fingerprinting or employment processes as required, or to report for duty after an assignment has been offered and accepted.
 15. Failure to demonstrate eligibility to work legally in the United States.
 16. Failure, after due notice, to provide information promptly for review of any of the above noted reasons for rejection. Such notice shall state that failure to provide the requested information is a basis for rejection.
 17. Failure to meet current eligibility requirements applicable to restricted positions in specially funded programs.
- F. Applicants or candidates may also be rejected for failure to meet the established entrance qualifications for the class of an examination. It is the responsibility of each applicant to provide information, documentation, or evidence that they meet the minimum qualifications as specified in the job bulletin when submitting an

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application. An applicant or candidate who is rejected under the provisions of this paragraph shall be given one opportunity to provide supplementary information, documentation, or evidence necessary to meet the entrance qualifications. Such supplementary material must be submitted in writing to the examination unit within five calendar days after the rejection notice was sent. If it is determined by the examiner of record that such supplementary material does not satisfy the entrance qualifications, the applicant or candidate shall be notified in writing.

- G. Eligibles may be removed from eligibility lists if it is subsequently determined that they failed to meet the established entrance qualifications for the class. Notification of rejection shall be in writing and specify the reason for the rejection. If an eligible has evidence to refute the rejection, the eligible may make a written request for review with accompanying evidence to the Personnel Director within five working days after the rejection notice was delivered.
- H. When there is evidence that an eligible should be rejected under one or more of the causes listed in Paragraph E., above, the Human Resources Division may submit a written request along with documentation to the Personnel Director asking for the removal of the eligible from the eligibility list. Based on the findings of fact, the Personnel Director may remove the eligible from the applicable eligibility list and any other appropriate eligibility lists on which the eligible's name appears.

Notification of Rejection

- I. Applicants, candidates, and eligibles who are rejected for any of the reasons identified in Paragraph E. of this rule shall be notified in writing. The written notification shall state:
 - 1. the reason for the rejection;
 - 2. the length of time the individual shall be ineligible to be considered for a position in the Los Angeles Community College District except when the rejection is for an unsatisfactory health condition; and
 - 3. that, within five working days after the written notice was sent, the individual may appeal in writing to the Personnel Director.

Written notices will be sent electronically to the candidate's last known email address.

Appeal Process

- J. Upon appeal, if the decision of the Personnel Director does not sustain the rejection for any of the reasons identified in Paragraph E. of this rule, the applicant or candidate will be permitted to take or continue the examination or in the case of an eligible the name will be restored to all appropriate lists.
- K. Upon appeal, if the decision of the Personnel Director is to sustain the rejection for any of the reasons identified in Paragraph E. of this rule, the individual:
 - 1. shall be given a written notice containing the reason or reasons for sustaining the rejection; and

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2. shall be informed of the right to make a written appeal of the rejection and/or the period of disqualification to the Personnel Commission within five working days after the written notice was delivered in accordance with Paragraph I. above.
- L. If rejected for any reasons noted in paragraph E. above, an appeal may be submitted by an applicant, candidate, or eligible and must contain specific grounds for the appeal. The following will be accepted as grounds for appeal:
1. that the rejection or the proposed removal of the name from the eligibility list is based on prohibited grounds of discrimination as defined in relevant law.
 2. that there is an abuse of discretion.
 3. that the reasons given for the action are not in accordance with the facts.
- M. Upon acceptance of an appeal that meets the grounds specified in Paragraph L., above, the Personnel Commission shall instruct the Personnel Director to investigate the appeal and make a report to the Personnel Commission or shall schedule a hearing, if deemed necessary. The Personnel Director may order that certification from affected eligibility lists be suspended pending completion of the hearing or any other period of time that is needed to satisfy the operational needs of the District and the rights of the appellant.
- N. The applicant, candidate, or eligible shall be afforded an opportunity to present relevant evidence at the hearing in a closed session.
- O. A rejected applicant or candidate who has appealed the rejection in accordance with the provisions of this rule, may conditionally be permitted to take any part of the examination that is being held pending a decision.
- P. At the conclusion of the hearing or consideration of the investigation report, the applicant, candidate, or eligible shall be notified in writing of the Personnel Commission's decision. If the decision is that the applicant or candidate should be permitted to take the examination, the applicant or candidate shall be permitted to proceed with the examination as if there had not been a rejection. In the event that the decision of the Personnel Commission does not sustain removal of the eligible's name from the eligibility list, the Personnel Director shall restore the eligible's name to the list and resume certification of the eligible's name to vacant positions.