

TA 8/25/15
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**ARTICLE 7
EMPLOYMENT PRACTICES**

7.4 Transfer

A transfer is a non-disciplinary change in a permanent employee's work assignment to another workstation within the same classification or to a position in another classification at the same or lower salary range as the current salary range placement of the employee.

7.4.1 ~~A permanent worker may request a transfer to another position.~~ Voluntary Transfers

Requests: Transfers may be initiated by an employee. This section (7.4.1 and subsections) addresses employee-initiated transfers only.

Salary: Transfers will be allowed only when the new work assignment will call for a salary range placement equal to or lower than the current salary placement of the employee.

A voluntary transfer to a lower classification may result in a salary reduction and no "Y-rating" adjustments shall be allowed. The employee shall be placed on a salary step in the lower range which corresponds in credit for years of service to that which was provided in the higher range. However, in no case shall the new pay level exceed the maximum salary for the lower classification.

Eligibility: No employee shall be considered for transfer to a new position, unless the employee meets the minimum requirements of the proposed new assignment, and has successfully completed probation in the current assignment.

Employees interested in transferring will sign up to receive email blasts of available opportunities. Employees shall have five (5) business days to indicate their interest in the position by submitting the required documents, such as a resume and cover letter, in accordance with the established procedure. This will not increase the three weeks of posting for new positions.

Human Resources will release internal applicants to the hiring committee after five (5) business days. The hiring committee for the internal hiring process will consist of the hiring manager, an ACE member appointed by ACE, and an EEO representative designated by Human Resources. The District may add additional members when deemed appropriate.

If the transfer is agreeable to the hiring manager and employee, the change in assignment shall be made as soon as it is practically possible, but in no case may it

be delayed longer than fifteen (15) working days after the Office of Human Resources has been notified officially by the supervising manager that a worker has been selected for transfer.

An employee who transfers voluntarily to another position under the above process will serve a six (6) month probationary period and be evaluated in the same manner as a new employee. The worker retains permanent status in the District and is only probationary in the new job. If he/she is released from the new job during the six-month probationary period, the Director of Human Resources shall reinstate the worker in the formerly held position, if available, or a position in the class in which he/she has permanency.

7.4.2 Administrative Reassignment

Request: Transfers may also be initiated by the administration to adjust for overages in staff, to meet the need for special skills, or to alleviate special problems.

Process: The supervisor will explain to the worker prior to the transfer the hours of work, location, immediate supervisor's name, and reasons for transfer. When a worker is transferred from one position in the District to one which is under a different supervising manager, the two supervising managers will arrange a mutually acceptable date of transfer. The transfer will take place as soon as feasible, but in no case may it be delayed longer than ten (10) working days after the Office of Human Resources has been notified officially by the supervising manager that a worker is being transferred.

7.4.3 Transfers shall not be used as a form of discipline.

7.6 Reorganization

Reorganization is a change in the composition of a work group, not including individual transfers, and is done in response to the need to improve processes and streamline procedures. Reorganizations can result in the elimination of positions or classifications, creation of new positions or classifications, merging or separation of departments, and/or redistribution of work duties. Reorganizations shall be recommended by management and handled through the normal meet and confer process.

7.6.1 When a supervising manager plans to reorganize his or her department, the District shall notify the Union and the appropriate Chief Steward in writing prior to implementation to provide for an opportunity to meet and confer. This notification shall include: the proposed changes; impact, if any, on workers; date of proposed implementation; and the reason for the change. If the Union does not respond within 15 working days, the changes shall be implemented as proposed.

- 7.6.2 If there is a request to meet, the parties shall meet and confer over the impact of the proposed reorganization. When appropriate, such discussion shall include identification of tasks and priorities by position. If no agreement is reached regarding job classification, the parties will use the appeal procedures of Article 15, Sections 15.5 and 15.6.
- 7.6.3 It is understood that reorganizations may result in reclassifications of filled or vacant positions, reassignments, schedule changes, and promotions. No reorganization shall take place without this process.

7.10 Evaluation of Performance

Evaluations of worker performance are made on a regular schedule (see Sections 7.1.1 and 7.2). After successful completion of the probationary period, classified hourly employees shall be evaluated at least once in each 24-month period. The evaluation process serves as an opportunity for both the worker and the administrator to clarify expectations and goals for performance of the worker's job duties and responsibilities. The evaluation is a written assessment of the worker's performance and enhances communication between the worker and administrator.

The performance evaluation should communicate performance standards for the position and encourage growth and development/improvement of performance for the future. Each evaluation must be signed by the supervising manager and the worker to indicate that it has been discussed. The worker may comment in writing on the evaluation form (within 10 days of receipt of evaluation), which then is filed in the official personnel file.

7.10.1 Responsibility for Performance Appraisals: Performance appraisals shall be prepared and presented by the worker's immediate supervisor/manager.

7.10.2 Performance Appraisal Process: Performance appraisal reports shall be written on forms provided by the District and shall be signed by the person making the appraisal. The worker shall sign the report as evidence of his/her knowledge of its contents. A copy of the report shall be maintained in the official personnel file.

7.10.3 Any negative documentation will be shared with the employee prior to inclusion in any performance evaluation.

7.10.4 The Director of Human Resources shall hold the performance appraisal for ten (10) working days before filing it. If a response is submitted within ten (10) working days of the appraisal, the Director of Human Resources, prior to the materials being placed in the worker's personnel file, will review both the response and the appraisal. However, a written response may be submitted at any time and directly placed in the personnel file.

7.10.5 Salary Impact Review: Any worker who has their advancement withheld due to their performance evaluation may request a review by the Director of Human Resources of the appraisal. The Director of Human Resources shall meet with the worker and the worker's ACE representative and issue his/her decision.

7.16 Classified Hourly Positions

7.16.1 Definition and Scope

- a. Classified hourly positions provide services to students that cannot be provided via a regular classified position. These services are needed on an on-going basis throughout the calendar year for a limited number of hours each week.
- b. All positions have a minimum number of hours per day (1) and days per week (1) when work is available, and a maximum number of hours. The number of hours may vary from quarter to quarter but at no time will the hours for the position itself exceed the maximum limit as identified in the job description, except as noted below in 7.16.2 Assignments. No notice of reduction will be required when hours decrease.
- c. Classified hourly positions do not perform the work of regular classified positions eliminated through budget reductions or reorganization.
- d. The District may establish additional classified hourly positions in accordance with the definition. Prior to recommending a new classified hourly position to the Board the District will meet with ACE to explain how the new position complies with the definition. The classification and salary will be negotiated in accordance with the contract.
- e. Classified hourly employees are covered by all of the provisions of this Agreement unless specifically noted.
- f. The District and the Union agree that the following positions are not included as classified hourly positions and the District has the right to continue to hire these positions as temporary, short-term positions:
 1. Seasonal positions such as cashiers, Registration assistants, Bookstore assistants, theater production assistants, etc. who will be employed for no more than six (6) weeks per quarter.
 2. Assignments for fewer fewer less than 45 days each year (e.g. Readers, Short Course instructors, Interpreters, etc.)

3. Allied Health paraprofessionals such as Paramedic/EMT Assistants and Nursing Program clinic Assistants used in an instructional capacity
4. Short term and temporary employees for limited projects with a clear beginning and end date.

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**ARTICLE 11
LAYOFF**

11.3 Notice and Consultation with the Union

11.3.1 The District shall notify the Union in writing of a layoff of a bargaining unit member. Whenever possible, such notice will be ~~60-75~~ days prior to the date of layoff but in no case shall the notice be less than ~~55-70~~ days prior to the date of layoff. But in all cases the notice must be given to the Union prior to any notification to the affected employee(s). The District shall notify the Union of the financial and program status of the District and of possible need to eliminate or reduce classified positions.

11.3.2 The District and the Union shall meet not later than five days following notification to the Union. The purpose of the meeting shall be:

11.3.2.1 To determine whether, in accordance with Education Code Section 88017, short term workers are employed performing work that the worker to be laid off is qualified to perform and whether such work is sufficient to create a position in the same classification as the worker to be laid off. Should the work not be sufficient to create a position in the same classification, the parties will explore whether there is sufficient work to create a position in a lower classification into which the worker, if qualified, can be placed, in lieu of layoff. A worker who accepts a position in a lower classification shall have reemployment rights for a period of 39 months from the date of voluntary demotion as noted in section 11.9 of the Article.

11.3.2.2 To examine alternatives and opportunities available to each worker who may be subject to layoff, unique conditions that may affect specific workers; and the possible consequences for other workers.

In addition, the District may hold division, department or campus meetings to explain the conditions leading to layoff and to explain the reasons for selecting certain positions for layoff. The Union staff may be present and participate at such meetings.

11.4 Notice of Layoff

A worker who is to be laid off shall receive at least ~~45-60~~ days notice prior to the layoff. Workers in specially funded programs ending on June 30 shall be given written notice on or before April 29 or not less than ~~45-60~~ days prior to the effective date of layoff for specially funded programs ending other than June 30.

The notice of layoff shall be in writing with a copy to the Union. When notice is issued in person, the Union representative shall be invited to attend. The notice shall include the effective date of the layoff and a statement of the worker's "bumping" (see Article 11.7) and reemployment rights.

11.4.1 Placement of Employees Affected by Layoffs

The following process is available only during a layoff and is established to facilitate placement of ACE members whose positions have been identified to be eliminated.

- a. First priority will be to fill vacant positions with affected employees who have rights to a vacant position based on seniority in that classification. If only one such affected employee has rights to a vacant position, that employee will be transferred into the position.
- b. When an employee has rights to a vacant position but the placement would have a negative effect on either the employee or the department, then the District and ACE will meet to discuss alternatives to the placement. If alternatives cannot be agreed upon, management reserves the right of assignment.
- c. If no affected employee has a right to a vacant position based upon seniority, affected employees shall be considered in an internal placement process. Through the search and selection process of internal hiring, promotions, voluntary demotions and lateral transfers shall occur. Positions will be opened in the following order:
 1. Phase 1: to all ACE employees.
 2. Phase 2: open to outside recruitment.
- d. The internal placement process will be followed concerning placement of current employees:
 1. A staffing requisition must be submitted which complies with college and District requirements.
 2. The job announcement will be sent via e-mail (eblast) to all ACE employees.
 3. Employees shall submit required documentation and materials, such as a letter of interest and resume, to Human Resources within five (5) days of the eblast being sent.
 4. The hiring committee for Phase 1 will consist of the hiring manager, an ACE member appointed by ACE, and an EEO representative designated by Human Resources. The District may add additional members when deemed appropriate.

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**ARTICLE 12
GRIEVANCE PROCEDURE**

12.5 Filing a Formal Grievance

- 12.5.1 A formal grievance is initiated by the filing of a Notice of Grievance on the prescribed notice form, (the grievance form is included in Appendix A).
- 12.5.2 The Notice must be filed by the grievant or Union representative with the grievant's supervising manager and with the Director of Human Resources. Failure to file the grievance with the Director of Human Resources within the time limit will invalidate the filing of the grievance. If the grievance is not filed correctly with the supervising manager, the Director of Human Resources will direct the grievance to the appropriate manager for response. If the grievant is not represented by the Union, a copy of the grievance must also be filed with the Union Worksite Organizer.
- 12.5.3 In those circumstances where the nature of the complaint involves the immediate supervisor, the employee may initiate the grievance at the second level of review.

The grievance must be filed within 30 working days after the grievant discovered or reasonably could have discovered the circumstances or action giving rise to the grievance. Regardless of the date of discovery, however, a notice shall not be timely if it is filed after the applicable statute of limitations period set forth in relevant laws. Informal attempts at resolution must take place within the 30 working day period before filing of the grievance; provided, however, that if attempts at informal resolution require further discussion the timeline for filing a formal grievance may be extended by mutual written agreement of the parties.

**ARTICLE 15
CLASSIFICATION AND RECLASSIFICATION**

15.2 Requests for Classification or Reclassification

Requests for classification may be initiated by the appropriate administrator or Director of Human Resources when a new position is created or a vacancy is to be filled at a different classification. The request for a new classification or change to a vacant classification shall be reviewed by the Classification ~~Review Committee~~ Specialist.

A request for reclassification may be initiated by either the worker or the appropriate administrator. The duties upon which the reclassification is based must have been assigned by the administrator on a permanent basis, or performed by the worker with the supervisor's knowledge, explicit or implicit. To request reclassification, a completed application shall be submitted to the Classification Specialist. The application shall include:

- 15.2.1 A copy of the present job description;
- 15.2.2 A copy of the job description for the proposed classification;
- 15.2.3 A completed copy of the Classification Questionnaire with all appropriate signatures;
- 15.2.4 Current and proposed organizational charts showing all positions with current employees and vacancies listed; and
- 15.2.5 Additional supporting documentation.

Requests for reclassification from more than one worker in the same classification at the same time may be consolidated.

A worker who has applied for reclassification may not apply for another reclassification for at least two years from the date of the last reclassification request, including a reclassification request under a prior agreement, except in extraordinary circumstances or reorganization.

All requests for classification or reclassification shall be submitted on the agreed upon application form (located in Appendix A) and the reason for the request shall be specifically stated. All requests shall be signed by the worker, ~~and~~ the worker's

supervising manager and the worker's appropriate vice president, who will not be allowed to change any of the worker's comments. Applications may be obtained from the Classification Specialist or downloaded from the Human Resources website. The completed and signed application shall be submitted to the Classification Specialist with a copy to the supervising manager and the Union. ~~There will be three (3) application periods during the fiscal year. Applications shall be due for review on the tenth (10th) day of October, February, and May. If the 10th falls on a weekend, the due date will be the following Monday. There will be no classification reviews done during summer session.~~

15.3 Classification Specialist

The Classification Specialist shall prepare a report and impartial analysis on each request for classification or reclassification. It is also the Classification Specialist's responsibility to determine whether there is currently an appropriate classification within the District, recommend addition or deletion of duties and prepare new or amended job descriptions. The report will be completed within ~~60-90~~ working days from the first day of the quarter and will be presented to the Classification Review Committee and sent to all interested parties prior to the meeting provided for in ~~per~~ Section 15.4 below.

The Classification Specialist's review will be based upon the following:

- 15.3.1 The completed application and all appended material;
- 15.3.2 An interview with the appropriate supervising manager;
- 15.3.3 A desk audit, if necessary;
- 15.3.4 Internal or external audits of other similar or related positions as necessary;
- 15.3.5 Any other relevant information; and
- 15.3.6 If requested by the applicant, an interview with up to two additional staff who have reason to know about the duties being performed.

15.4 Classification ~~Review Committee~~ Specialist Determination Report and Meeting

~~15.4.1 The Classification Review Committee shall be comprised of an equal number of Union and District representatives and shall consist of the following:~~

- a.—The Director, Human Resources or his/her designee, chair;
- b.—One administrator from Central Services appointed by the Chancellor;
- c.—One administrator from Foothill College appointed by the President;
- d.—One administrator from De Anza College appointed by the President;

c.—The Classification Specialist serves as an ex-officio member of the committee.

The bargaining unit will assign four (4) members:

15.4.2 Members are appointed to the Committee for a three (3) year term. A member may be reappointed for a single consecutive three (3) year term. Membership terms on the committee shall be staggered to ensure continuity of knowledge and history.

15.4.3 The Classification Specialist shall schedule a meeting with the Classification Review Committee to consider the report within 10 work days after sending out the report to the Classification Review Committee. The meeting shall be informal and shall not be conducted like an evidentiary or trial-type hearing, although there may be written statements and documents presented. There shall be a full discussion of the report and of any suggested alternatives. There shall be no witness testimony at the meeting.

If more information is necessary the meeting shall be adjourned and reconvened if necessary but in no case shall this step take more than 20 work days.

15.4.4 After the Classification Review Committee meeting, the recommendations of the Committee shall be forwarded to the employee and the appropriate supervisor/administrator within ten (10) work days after the meeting. The decision shall also include instructions regarding the process for appealing the decision. If the Committee cannot agree on a recommendation, the request shall proceed to Article 15.6 (Final Appeal).

The Classification Specialist shall prepare and send out a preliminary determination report and a meeting to discuss the findings which shall be scheduled within ten (10) workdays after sending out the report.

The Director of Human Resources, the Classification Specialist, the appropriate administrator(s) and supervisor(s) and the worker(s) and his/her ACE representative(s) shall attend. The meeting shall be informal and shall not be conducted like an evidentiary or trial-type hearing, although there may be written statements and documents presented. There shall be a full discussion of the report and of any suggested alternatives. There shall be no other witness testimony at the meeting.

If more information is necessary the meeting shall be adjourned and reconvened but in no case shall this step take more than 20 workdays.

15.4.1 If requested by any party, the Director of Human Resources shall meet with the Union to discuss any issues/concerns regarding the reclassification. Any findings shall be submitted to the Classification Specialist for inclusion (if necessary) in a final determination report. This process shall take no longer than ten (10) workdays.

15.4.2 The Classification Specialist shall issue a final determination report within ten (10) workdays after the meeting. Copies of the determination report shall be distributed to all meeting participants. The determination report shall also include instructions regarding the process for appealing the decision.

The time lines in 15.3 and 15.4 may be extended at the request of either party (the Union and the District). The party requesting the extension must provide a rationale for the request.

15.5 Appeal

The decision may be appealed to the Vice Chancellor of Human Resources and Equal Opportunity. The appeal form must be filed with the Classification Specialist within ten (10) working days of receipt of the ~~decision~~-final determination report by the worker. The Vice Chancellor shall review the decision and all written documentation previously submitted. Within thirty (30) working days of receiving an appeal the Vice Chancellor will render a written decision. Copies of the written decision shall be distributed to the Union, the worker, the administrator and the Classification Specialist.

15.6 Final Appeal

The decision of the Vice Chancellor of Human Resources may be appealed to a neutral party, jointly selected by the Union and the District. The appeal packet shall go the neutral party immediately upon the mutual agreement of the appointment. The cost of the neutral party shall be shared on a 50/50 basis. The appeal form must be filed with the Classification Specialist within ten (10) working days of receipt of the decision of the Vice Chancellor of Human Resources. The neutral party shall review the decision and all written documentation previously submitted. Within thirty (30) working days of receiving an appeal, the neutral party will render a final written decision. Copies of the final written decision shall be distributed to the Union, the worker, the administrator and the Classification Specialist.

15.7 Retroactivity of Reclassification Decisions

A decision to reclassify a worker to a higher position shall be retroactive to the date of the application. If higher level duties previously assigned to the worker are removed from the position as a result of a reclassification decision, the worker shall receive pay in accordance with Article 8.9 for performing the higher level duties for the period of time beginning with the date of the reclassification application to the date the duties are removed.

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ARTICLE 23
DURATION

23.1 Length of Agreement

This Agreement will continue in effect through October 31, ~~2014~~ 2017 provided, however, that either party may reopen negotiations as specified in Article 20 ("Negotiations").