WITHHOLDING NAMES FROM ELIGIBILITY LISTS OR FROM CERTIFICATION

Education Code Section (s)

88080. Power of Personnel Commission to Prescribe and Amend Rules. (a) The commission shall prescribe, amend, and interpret, subject to this article, such rules as may be necessary to ensure 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.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

88081. Subjects of Rules. (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.

A. Withholding Names from an Eligibility List

1. The Personnel Commission may withhold from an eligibility list the name of a candidate who achieved a passing score in an examination, pending final determination that the candidate meets the examination and/or employment requirements.

2. Notification to the candidate of the withholding action will take place at the same time eligibles are being notified of their respective places on the eligibility list.
B. Withholding Certification of Eligibles

1. The Personnel Commission may withhold certification of a name on the eligibility list for appointment pending investigation of the necessity for removal of the name from an eligibility list for the causes set forth in Rule 600, Rejection of Applicants, Candidates, and Eligibles.

2. Except when an appeal is to be heard by the Personnel Commission, no name shall be tentatively withheld from certification for more than 30 days without an explanation in writing to the eligible, with a copy to the Personnel Commission. In no case shall an eligible's name be withheld from certification longer than necessary to clear up matters in doubt. The reason for any action under this rule which results in a person not being certified when his/her place on the eligibility list has been reached will be clearly set forth in the eligibility records.

C. Availability of Eligibles

1. An eligible on a reemployment or an eligibility list may refuse two offers of interview (or regular full-time appointment if no interview is to be held) within the limits of the eligible's availability as to location, time, and status and retain active status on such list. After the third refusal of offers, no more offers need be made. All offers and refusals shall be recorded by the Personnel Commission and made a part of the eligibility list record.

2. After failure to respond within a reasonable time to a written communication involving a possible regular appointment, an eligible may be passed over until he/she has submitted an acceptable explanation of failure to respond.

3. No act or omission with respect to an offer of limited-term employment will affect adversely the right of any person on a reemployment list or an eligibility list to certification for a regular position.

4. Employees with limited-term status only may decline offered assignments and may absent themselves from duty without losing their rights to future assignments when the declination or absence is the result of illness, as attested by the certificate of a licensed physician. It shall be within the discretion of the Personnel Commission to permit such employees for stated reasons other than illness to decline not more than three consecutive offers of assignments, terminate a tour of duty, or waive certification. Neither illness, declinations, nor waivers shall prolong the allowable interval between assignments.