EMPLOYMENT AFTER DEMOTION OF PROBATIONER FROM PROMOTIONAL POSITION

Education Code Sections

88080. Power of personnel commission to prescribe, amend and interpret rules. (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.

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. A permanent classified employee who is demoted because of incompetency or inefficiency during a probationary period in a higher class, after appointment from a position in the classified service in which permanent status had been acquired, has the following placement rights, which shall be exercised in the following priority order:

1. Rights to be assigned to an existing vacancy in the class from which the employee was most recently promoted.
2. Rights to displace in the class from which the employee was most recently promoted, provided that he/she has more seniority than the employee with the least seniority in the applicable class.

3. Rights to be assigned to a vacancy in any other class in which the employee held regular status.

4. Rights to displace in any other class in which the employee held regular status, provided that he/she has more seniority than the person with the least seniority in the applicable class.

Notwithstanding the placement rights described above, consideration shall be given to the employee’s request for placement in a vacant position in any lower class for which the employee is qualified.

B. If placement is not affected by the above provisions, the employee shall be laid off and afforded reemployment rights in accordance with the provisions of Rule 740, LAYOFF AND REEMPLOYMENT.

C. The provisions of Rule 701, PROBATIONARY AND PERMANENT STATUS, shall apply in cases where the employee has not acquired permanent status in the lower class to which he/she is demoted.