

**ARTICLE 7
EMPLOYMENT PRACTICES**

7.1 Probationary Employment

7.1.1 Workers and classified hourly employees who are employed for the first time or are re-employed by the District in a new classification serve probation for a period of 6 months or one-hundred thirty (130) days of paid service, whichever is longer from the date of employment or re-employment as probationary workers. At the end of the second and fifth months of employment workers will receive written evaluations of their work and their progress towards permanency. Classified hourly employees are evaluated at the end of the third month of employment.

A probationary worker may be released at any time that the supervising manager and the Office of Human Resources determine that the worker's performance is unsatisfactory. The notice of release will be presented to the worker in writing with a copy to the Union. The probationary worker shall receive five (5) days pay. These five days do not extend the probationary period.

7.1.2 Promotional Probationary Period: For a permanent worker who changes job classification due to promotion (except as noted in Section 7.5), probation shall be for six months, unless the worker is released from the new job before this time. At the end of the second month on the new job, the worker shall receive a written evaluation of their performance and progress towards permanency. The worker retains permanent status in their prior classification and is only probationary in the new job. If released from the new job during the six-month probationary period, the Associate Vice Chancellor, Human Resources shall assign the worker to a position in the class in which they hold permanency. They will be reinstated as a permanent worker, and seniority at the higher position shall be credited to seniority in the lower class. Workers who successfully complete probation shall have their annual step date adjusted to reflect the six-month probationary period.

7.2 Recommendation for Permanency

During the month before a worker completes their probationary period, they will be reviewed for advancement to permanency. At this time, the District must determine whether to grant permanency. The supervising manager will review all of the worker's evaluations in reaching this determination.

7.2.1 If the supervising manager decides that employment will be continued, permanency will be recommended in writing through the regular evaluation form and will be approved by the supervising manager. This decision will be reviewed with the worker. Recommendation for permanency for a classified hourly employee will be made in writing through a letter from the supervising manager. The recommendation will be forwarded to the Office of Human Resources.

- 7.2.2 If the supervising manager does not recommend that the worker or classified hourly employee be granted permanency, employment shall be terminated.
- 7.2.3 Once the worker has been granted permanency, they may only be dismissed for cause. (See Article 16, Disciplinary Action.)
- 7.2.4 A permanent worker remains subject to layoff for lack of work or lack of funds in accordance with seniority and displacement rights, if any. (See Article 11, Section 11.1, Layoff.)
- 7.2.5 The permanent status of a worker who changes job classification by movement on a promotional ladder shall not be affected,

7.3 **Orientation and Professional Development Training**

- 7.3.1 The District shall provide an orientation program for all new workers, which shall include a scheduled time for a presentation by a designated ACE representative. ACE shall provide all materials for its presentation.
- 7.3.2 Professional Development Training: Each supervising manager or department head develops procedures whereby a worker or a classified hourly employee receives training in the job assignment and is encouraged to learn the complete function of the department. Professional Development training classes are organized when needed and all workers and classified hourly employees are encouraged to participate in such training.
- 7.3.3 Outside Courses: Workers are encouraged to enroll in outside courses in order to increase job knowledge and efficiency. Workers are also encouraged to attend conferences appropriate to their positions. (See Professional Growth Award, Section 8.5.)

If a worker and the supervising manager can make mutually agreeable arrangements for making up lost time, a worker may enroll in a class, typically on one of the campuses, during normal working hours. If a supervisor recommends that a worker enroll in a specific class in order to improve efficiency in the present position, the District will reimburse the worker after the class has been completed for any fees and/or books required for the class. If a supervising manager requires a worker to enroll in a class, the worker will receive released time for attendance if necessary and reimbursement for all fees and/or books required for enrollment in the class.

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 **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 they are released from the new job during the six-month probationary period, the Associate Vice Chancellor, Human Resources shall reinstate the worker in the formerly held position, if available, or a position in the class in which they have 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.

7.5 **Promotion**

Promotion is the selection of a worker, through the employment process, for a vacant position in a higher classification.

7.5.1 **Selection for Promotion**

- a. In order to be promoted a worker must apply for the position during an open and public recruitment, unless there is an opportunity for promotion due to the requirements of 5 CCR 53021(c) being met.
- b. District workers shall receive "first consideration" for promotional positions. All internal applicants who meet the minimum criteria for a position will be granted an interview; this is "first consideration." The parties also agree to explore practical methods of encouraging internal recruitment that foster promotional opportunities and staff advancement and that are consistent with the District's commitment to high quality, equal opportunity and diversity.
- c. Eligibility: No employee shall be considered for promotion 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.

- d. Employees interested in promotion will sign up to receive email blasts/job alerts of available opportunities. This will not increase the three weeks of posting for new positions.

7.5.2 **Placement and Movement upon Promotion**

- a. A worker who is selected for a position at a higher classification shall be placed on a step in the new salary range that pays the equivalent of a step increase over the salary earned in the former range or 5%, whichever is greater, such placement not to be higher than the top step.
- b. The move to the new position shall generally be within 10 working days. In any event, the effective date of the promotion shall not be delayed more than 10 working days. In unusual circumstances where the movement of the worker would cause particular hardship for the department losing the worker, the supervising managers may delay the movement by mutual agreement beyond the 10-day guideline.
- c. Promotional Probationary Period: For a permanent worker who changes job classification due to promotion (except as noted in Section 7.2.5), probation shall be for six months, unless the worker is released from the new job before this time. At the end of the second month on the new job, the worker shall receive a written evaluation of their performance and progress towards permanency. The worker retains permanent status in the District and is only probationary in the new job. If they are released from the new job during the six-month probationary period, the Associate Vice Chancellor, Human Resources shall assign the worker to a position in the class in which they hold permanency. They will be reinstated as a permanent worker, and their seniority at the higher position shall be credited to their seniority in the lower class. Workers who successfully complete probation shall have their annual step date adjusted to reflect the six-month probationary period.

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 their 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.

7.7 **Work Year**

All workers in the bargaining unit shall be employed as 12-month, 11-month, 10-month, academic-day or academic day plus summer session workers.

7.7.1 The work year for each 12-month worker shall be 12 months every fiscal year.

7.7.2 The work year for each 11-month worker shall be 11 months every fiscal year with the worker in non-paid status for four consecutive weeks or one month between the last day of the spring academic term and the first day of the fall academic term. Selection of the specific period during which an 11-month worker is to be in non-paid status shall be determined by mutual agreement between the worker and their supervising manager based on program needs or, if a mutual agreement cannot be reached, by the reasonable needs of the District determined by the President or the Chancellor for Central Services.

In the event that either the District or an eleven (11) month worker wishes to have the worker's unpaid time off taken at a time other than that provided for in this section, the consent of the District, the worker and the Union is required no later than six months prior to implementation of the leave. Accommodation of any such request shall not result in a reduction in contract for any position(s) in that department.

7.7.3 The work year for each 10-month worker shall be 10 months every fiscal year with the worker in non-paid status for eight consecutive weeks or two months between the last day of the spring academic term and the first day of the fall academic term. Selection of the specific period during which a 10-month worker is to be in non-paid status shall be determined by mutual agreement between the worker and their supervising manager based on the needs of the program or, if a mutual agreement cannot be reached, by the reasonable needs of the District as determined by the President or the Chancellor for Central Services.

In the event that either the District or a ten (10) month worker wishes to have the worker's unpaid time off taken at a time other than that provided for in this section, the consent of the District, the worker and the Union is required no later than six months prior to implementation of the leave. Accommodation of any such request shall not result in a reduction in contract for any position(s) in that department.

7.7.4 The work year for each academic-day worker shall be 176 days of the academic calendar. Each academic day worker shall be paid as a 10-month worker but only for days worked, for each of the holidays that falls between the first day of the fall academic term and the last day of the spring academic term, and for each day of earned vacation, which must be taken between the beginning of the fall academic term and the end of the spring academic term.

7.7.4.1 The work year for each academic-day plus summer session worker shall be 176 days of the academic calendar year plus the appropriate summer session.

7.7.5 Any 11-month, 10-month, or academic-day worker whose contract is extended beyond the worker's regular work year shall be paid a pro rata amount for the additional time worked and shall accrue benefits for the additional time worked at the worker's normal rate of accrual.

7.7.6 When an 11-month, 10-month, or academic-day contract has been extended for 2 consecutive years, the District and the Union shall meet and confer to determine whether the contract should be extended permanently.

7.7.7 All 11-month, 10-month, and academic-day workers including academic-day plus summer session workers shall earn pro-rated vacation leave, sick leave, and service recognition awards, and shall receive all paid benefits. To have paid benefits continue during the summer months each 11-month, 10-month, and academic day worker must file a statement with the Associate Vice Chancellor, Human Resources setting forth the worker's intent to return to work and, for 10-month and 11-month workers, the weeks during which the worker will be in non-paid status. The Office of Human Resources shall send out required forms to each affected worker no later than May 15.

7.8 **Termination**

7.8.1 **Notice of Resignation**

A worker who wishes to leave the service of the District in good standing must file with the Board of Trustees through the supervisor a written resignation giving the District reasonable notice of the last date of service. The Chancellor or designee is authorized by the Board to officially accept the resignation of any worker. The resignation of the worker shall be final and effective at the time of receipt by the Chancellor or designee.

7.8.2 **Abandonment of Position**

If a worker is absent for three working days without leave or without having notified their supervisor, the absence will be an automatic resignation from the District. A worker may request reinstatement from such a resignation. If the District has given the worker written notice of the automatic resignation, any request for reinstatement must be filed with the Associate Vice Chancellor, Human Resources within 15 days of this notice. Reinstatement may be granted only if the worker makes a satisfactory explanation of the cause of their absence and for failure to notify their supervisor. Reinstatement will be determined by the supervising manager in consultation with the Associate Vice Chancellor, Human Resources or their designee.

7.8.3 **Paid Benefits and Leave Credit upon Termination**

A worker who terminates employment in the District shall receive paid benefits and leave credit through the end of the month in which the termination is effective.

7.9 **Reemployment**

If a former classified worker is re-employed within one calendar year of the last date of the former period of employment with the District and they left the District for any reason other than resignation, dismissal for cause or abandonment of position, they shall regain hours in paid status for seniority purposes, accumulated sick leave, unused personal leave, and former vacation status. A former worker is re-employed in probationary status in accordance with Section 7.1. A worker re-employed in the same classification shall be placed at their former step on the salary schedule.

If a former classified worker is re-employed within 39-months after the effective date of their voluntary resignation, the District shall disregard the break in service of the employee and restore to the employee all of the rights, benefits and burdens of a permanent employee in the class to which they are reinstated or reemployed.

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 their 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 Associate Vice Chancellor, 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 Associate Vice Chancellor, 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 Associate Vice Chancellor, Human Resources of the appraisal. The Associate Vice Chancellor, Human Resources shall meet with the worker and the worker's ACE representative and issue their decision.

7.11 Personnel Records

All personnel files shall be kept in confidence and shall be available for inspection only to officials of the District in the proper administration of the District's affairs or the supervision of the worker. Information from the employment records of a classified worker shall not be released outside of the District without the consent of the classified worker unless the release is compelled by law or by a judicial order or lawfully issued subpoena. A steward or other representative of the Union shall be authorized to review a personnel file only with written consent of the worker.

The Office of Human Resources maintains a complete file of records on each classified worker of the District. Except for routine records, no items will be placed in a personnel file without the knowledge of the worker. A worker may examine the contents of this file, with the exception of confidential letters of reference and comments of interviewers. No document may be removed from the file, but the worker or the Union may receive a photocopy of any item on request. Each person's folder will normally contain the following items:

- 7.11.1 The original application form;
- 7.11.2 Records of all job classifications, assignments and pay changes;
- 7.11.3 The original copies of all evaluations;
- 7.11.4 Copies of garnishments and other legal papers processed by the District;
- 7.11.5 Changes of name or address;
- 7.11.6 Other pertinent data concerning the worker.

The worker must read and sign all evaluations and contract changes before these are added to the permanent file. In signing, the worker does not necessarily agree with or accept the terms of the document, but merely acknowledges that they are aware of the terms of the contents. Refusal to sign may lead to disciplinary action.

In cases where the District has received information concerning a worker which is damaging to their character or reputation, the Associate Vice Chancellor, Human Resources will seal this information in an envelope to be opened only by the Associate Vice Chancellor, the President of either campus, the Chancellor/Superintendent, the Board of Trustees, or the worker or their representative as designated in writing. Whenever such information is placed in a file the worker will be notified.

An official personnel file of each worker shall be maintained in the District Office of Human Resources. Any working files kept by any supervising manager may contain material that is appropriate to day-to-day supervision. However, no adverse action of any kind shall be taken against the worker based on materials which are not in the official personnel file. Information in the supervising manager's working file may contain backup information to official material in process before being placed in the official file, or unofficial day-to-day information.

The worker shall be given an opportunity during working hours and without loss of pay to initial and date any derogatory written material and to prepare a written response to such material before it is placed in their personnel file. The written response shall be attached to the material. All materials in the personnel file must be dated and the source indicated. If other than routine material, it must be signed by the originator.

Any worker shall have the right at any reasonable time and without loss of pay to examine and/or obtain copies of any material from their personnel file with the exception of material that includes ratings, reports, or records which were obtained prior to their employment.

All derogatory materials except official evaluations and court orders if the worker so requests, shall be removed from the worker's personnel file and destroyed after remaining in the file for a period of two years unless there is a legal prohibition against such

destruction. If there is such prohibition, such material shall be sealed and kept with the personnel file.

7.12 **The Hiring of Relatives**

The District does not prohibit the employment of relatives or domestic partners in the same department or division provided that neither relative/partner participates in or in any way influences recommendations or decisions specifically affecting the appointment, retention, evaluation, tenure, work assignment, promotion, demotion or salary of the other relative/partner; or in any action, event, or circumstance where a real or perceived conflict of interest may exist for the parties.

In those instances where developments cause one relative/partner to have recommending or decision-making responsibilities over another relative/partner, the District may transfer one of the parties, within a reasonable amount of time. If a transfer is not possible, these functions, as they apply to the related persons, shall be performed by the next higher level of supervision/administration in the department or division until a transfer can be accomplished.

7.13 **Change of Address**

In order that the District may maintain an accurate listing of the complete names, telephone numbers, and mailing addresses of all workers, each worker shall be responsible for reporting any changes to the Office of Human Resources within ten days of any such change.

7.14 **Tuberculosis Examination**

Each new worker of the District must provide written evidence that they have been examined or completed a risk assessment for tuberculosis within 60 days before the beginning of work. The worker may not begin work unless they submit acceptable documentation signifying freedom from active tuberculosis.

In order to continue employment with the District, each worker must provide evidence of a risk assessment or skin test demonstrating freedom from tuberculosis every four years. The District will pay the cost of examinations if they are conducted in institutions specified by the District.

Any worker found to have active tuberculosis shall be placed on leave of absence, subject to the usual sick leave and income protection insurance benefits. The worker shall not return to duty until a certificate signed by a physician is presented, stating freedom from active tuberculosis.

7.15 **Employment Vacancies**

7.15.1 **Posting of Notice**

- a. Notice of all position vacancies shall be posted on the District's Human Resources web site (hr.fhda.edu), the District Office and mailrooms at Foothill College, De Anza College and the Sunnyvale Campus.
- b. Each notice of vacancy shall remain posted for at least 7 calendar days and until the position has been filled.
- c. A worker on leave or layoff may request to receive a copy of a Position Announcement by mail if they so request of the Associate Vice Chancellor, Human Resources before the beginning of the leave or layoff.

7.15.2 **Form of Notice**

A Position Announcement shall include the job title, a brief description of the position and duties, the minimum qualifications required for the position, the assigned job site, the number of hours per day, regular assigned work shift times, days per week, and months per year assigned to the position, the salary range and deadline for filing to fill the vacancy.

7.15.3 **Application**

A worker may apply for any vacant position by submitting application materials outlined on the official position announcement to the Office of Employment Services within the specified application period. A worker on leave or vacation may authorize a Union representative or steward to apply on the worker's behalf.

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 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. Classified hourly positions

do not perform the work of regular classified positions eliminated through budget reductions or reorganization.

- c. 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.
- d. Classified hourly employees are covered by all of the provisions of this *Agreement* unless specifically noted.
- e. 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, theater production assistants, etc. who will be employed for no more than six (6) weeks per quarter.
 - 2. Assignments for fewer than 45 days each year (e.g. 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.

7.16.2 **Assignments**

- a. When there are more active classified hourly employees in a particular classification than assignments available, assignments will be made on the basis of seniority.
- b. Classified hourly employees who do not accept an assignment during an academic quarter must request an unpaid leave of absence or resign.
- c. Summer assignments shall be made on the basis of seniority provided the employee meets the minimum qualifications for the assignment. Classified hourly employees who do not wish to receive summer assignments shall notify the appropriate administrator. Such action shall have no negative effect on employment status.

7.17 **Contracting Out**

During the life of this Agreement, the District will not contract out bargaining unit work except in accordance with existing State laws and regulations after consultation with the Union. Should there be a significant change in the laws governing contracting out of services or programs, either party may request to reopen this article.

7.18 **Mutual Respect**

The District and the Union support a working environment in which all workers can work in an atmosphere of mutual respect and trust. In the event that either party identifies a specific incident in which an individual or group of individuals believes that they have not been treated respectfully, the District and the Union will meet to discuss the issue and determine an appropriate course of action.

Complaints brought forward under this provision and the actions taken to resolve the issues, shall not be grieved under the provisions of Article 12 of this *Agreement*.