

PERSONNEL COMMISSION RECRUITMENT AND APPOINTMENT PROCEDURES
Guidelines for Recruitment and Appointment
Of "Neutral" Commissioners
For Post-1965 Personnel Commissions

I. LEGAL BASIS

Education Code section 88066 assigns responsibility for the appointment of the "neutral" personnel commissioner in community college districts with personnel commissions established since 1965. It states, in pertinent part:

"(b) Where a system is already in existence and a vacancy will exist on December 1, by not later than September 30: . . .

(2) The appointee or appointees, as appropriate, of the governing board and the appointee or appointees of the classified employees shall publicly announce the name of the person they intend to appoint, if the vacancy is their appointee.

If the governing board and the classified employees of the district are unable to agree upon a nomination by September 30, the Chancellor of the California Community Colleges shall make the appointment within 30 days.

* * * *

(f) At the next regularly scheduled personnel commission meeting to be held . . . after 30 days from the day the intended appointee is announced, as specified in paragraph (2) of subdivision (b), . . . the appointee or appointees of the governing board and the appointee or appointees nominated by the classified employees shall, in an open hearing, provide the public and employees and employee organizations the opportunity to express their views on the qualifications of each candidate recommended for the vacancy. Each candidate shall be invited to this meeting.

The appointee or appointees of the governing board and the appointee or appointees nominated by the classified employees may make their appointment or may make a substitute appointment or recommendation without further notification or public hearing."

II. NOMINATION AND APPOINTMENT PROCEDURES

A. Nomination. It should be ensured that all appointments reflect district needs, interests, and priorities; and, equally important, that nominations be arrived at through an open, collegial process. Those most closely involved in local operations are in the best position to recommend personnel commissioners.

To make the best appointments, districts should follow these basic elements in their recruitment and selection processes:

1. Open recruitment, including at a minimum, public announcement of the vacancy through:
 - a. Personnel commission agendas;
 - b. Press releases; and
 - c. Notices to employee and community organizations representing the widest possible diversity of individuals who may be interested in district employment practices.
2. Additionally, the notice shall inform the district governing board and employee organization(s) of the vacancy, and provide them with these procedures and guidelines for making recommendations and challenging nominations.
3. Ideally, candidates will be selected by agreement between all constituent groups, and it is, therefore, strongly recommended that all necessary steps be taken to reach consensus at the local level.

B. Appointment. Appointment decisions will, in accordance with Education Code section 88064, take several factors into account; the most important of which is that each commissioner shall "be a known adherent to the principle of the merit system." All factors are outlined below for consideration in nominating commissioners:

1. The candidate shall be a known adherent to the principle of the merit system. "Known adherent to the merit system" means a person who, by the nature of their prior public or private service, has given evidence that he or she supports the concept of employment, continuance in employment, in-service promotional opportunities and other related matters on the basis of merit and fitness. With respect to a candidate seeking reappointment, "known adherent to the merit system" shall mean a commissioner who has clearly demonstrated through meeting attendance and actions that he or she, in fact, supports the merit system and its operation.
2. The candidate must be a registered voter and resident within the territorial jurisdiction of the district.
3. The candidate shall not be a member of the nominating governing board or of any other community college district governing board, nor shall he or she be an employee of the district. (Relatives who are employees of the district are acceptable.)

4. The candidate should have demonstrated an ability to assess the relative importance of personnel issues and make decisions which enhance merit principles, effective employer-employee relations, and equal employment opportunity. This should not be interpreted to require prior personnel experience. The requisite skills and abilities can be acquired in many ways.
5. The candidate should possess personal characteristics which promote the maintenance of rapport with commission members; promote open communications with the governing board, classified employees, and other interested parties; and improve the commission's decision making by adding new and creative viewpoints.
6. The candidate's membership on the commission should help ensure that the commission will serve the diversity of interests within your community, such as business, labor, education, taxpayers, parents, students, men, women, persons of all racial and ethnic backgrounds, and persons with disabilities. We recognize that, due to the size of the personnel commission, all interests cannot be represented, but efforts should be made to assure that there is no concentration of any one sex, ethnic group or interest group on the commission.
7. The candidate should be willing to attend and participate in commission meetings.
8. The candidate should demonstrate an understanding of the district's and the commission's role.
9. The candidate should be selected through an open process.

III. IMPASSE: REQUEST FOR THE STATE CHANCELLOR TO APPOINT THE "NEUTRAL" COMMISSIONER

As stated above, ideally, candidates will be selected by agreement between all constituent groups, and it is, therefore, strongly recommended that all possible steps be taken to reach consensus at the local level.

- A. If an impasse is reached, the Personnel Commission may request that the state Chancellor make an appointment of a neutral commissioner. There are at least three different situations in which the Chancellor may make such an appointment:
 1. Where a vacancy is anticipated because the term of a neutral commissioner will be expiring, the Chancellor will make an appointment if the commissioner(s) appointed by the governing board and the commissioners(s) appointed by the classified employees are unable, after making good faith efforts, to agree on a nominee by September 30th.
 2. In the event that the Chancellor appoints a neutral commissioner pursuant to Education Code section 88066 and that person resigns or the position otherwise becomes vacant before the

end of the term, the Chancellor will appoint a new neutral commissioner if the remaining commissioners are unable to agree on a replacement after making good faith efforts to do so.

3. Where the neutral commissioner was not appointed by the Chancellor and he or she resigns before July 31st of the year in which the term will expire, or the position otherwise becomes vacant before that date, the Chancellor may, but is not required to make an appointment, if the remaining commissioners are unable to agree on a replacement. The Chancellor will not entertain requests to fill a vacancy occurring after July 31st of the year in which the term will expire because an interim appointment can and should be made at the local level. Pursuant to Education Code section 88068, the personnel director may request that the district governing board make an interim appointment of up to 60 days in duration pursuant to Education Code section 88068(b). This process will result in filling the vacancy for the remainder of the term as quickly or more quickly than the Chancellor could act.

Requests for the Chancellor to fill vacancies occurring before July 31st of the year in which the term will expire may be accepted, at the discretion of the Chancellor. Factors to be considered in deciding whether to grant a request under these circumstances will include the timing of the request, the period remaining in the term, the documented extent of good faith efforts to reach agreement between the remaining commissioners, the history of previous involvement by the Chancellor in appointments in the district, and what would be in the best interests of the district and its classified employees.

- B. Before any request for intervention is made to the state Chancellor due to an impasse the commission must first:
 1. Hold a public personnel commission meeting in accordance with Education Code section 88066(f).
 2. Invite all candidates for appointment to the meeting.
 3. Have each candidate interviewed by the commissioners during the public meeting, using questions prepared by the commission, the governing board, and the classified employees. Each candidate shall be given the opportunity to respond to each and every question, although follow-up questions are also permitted.
 4. Afford the public, the employees and employee organizations an opportunity to express their views on the candidates in writing or in oral testimony at the hearing.
 5. Record the meeting and prepare a transcript of the entire meeting.
 6. Make good faith efforts to agree upon an appointee based on the testimony at the hearing; and if possible, make an appointment at the hearing or subsequent to the hearing. (Subdivision (f) of section 88066 states that, "The appointee . . . of the governing board and the appointee . . . nominated by the classified employees may make their appointment . . . without further notification or public hearing.")

C. If the Personnel Commissioners are still at an impasse after obtaining input at the public hearing, a request for intervention under Education Code section 88066(b) may be made to the state Chancellor. As part of such a request, the following shall be forwarded to the Legal Affairs Division of the Chancellor's Office:

1. The advertisement for the At-Large Commissioner, including any recruitment documents such as press releases, notices to employee organizations and the community.
2. The relevant Personnel Commission agenda(s).
3. The application packets, including any attachments or other relevant documents (such as voter registrations).
4. A recording (either audiotape or compact disc) and full transcript of the meeting, including any background materials, and written comments submitted, if any.
5. Evidence that the personnel commission has given all interested parties and constituencies notice that it has requested that the State Chancellor make an appointment pursuant to section 88066(b). The notice shall include:
 - a. The date upon which the commission declared an impasse and requested the state Chancellor's intervention, and
 - b. Notice that written comments containing information or views not previously submitted to the commission may be submitted to the state Chancellor's Office within 10 calendar days of the date of such notice.

D. In making an appointment, the Chancellor or his/her designee will do all of the following:

1. Consider all the materials submitted pursuant to III.C. as well as any written comments received by the Legal Affairs Division of the Chancellor's Office within 10 calendar days from the date of the notice of impasse provided to all interested parties by the personnel commission pursuant to III.C.5. above.
2. Consider, in his/her discretion, factors such as the qualifications of the candidates, their experience with the district in question or other community colleges, the extent to which they will add balance to the composition of the Commission, recommendations and/or objections expressed by any interested party, and any other factors deemed relevant by the Chancellor or his/her designee.
3. In the event that none of the candidates is found to be eligible for appointment, the Chancellor or his/her designee may either:

- a. Require that the personnel commission solicit further nominations and hold an additional hearing to gather public comment; or
 - b. Solicit further nominations and input directly from the district governing board and the employee organizations.
4. Make an appointment within 30 days provided that at least one eligible candidate has been identified.
- E. The decision of the Chancellor shall be final, and shall not be subject to appeal.

Prepared by:
The California Community Colleges Chancellor's Office
Legal Affairs Division

Amended August 2005