

## ARTICLE 9

### EMPLOYEE STATUS

#### Appointment

9.1 Campus position vacancies for CSUEU-represented classifications shall be posted for fourteen (14) days on the campus electronic website and on appropriate bulletin boards. Campus position vacancies shall include the classification title, skill level, description of primary duties, desirable experience, minimum qualifications, preferred qualifications (when applicable), salary range or sub-range applicable to a skill level, targeted salary range (if any), specialized skill (if any), and procedures to be followed by applicants applying for such vacancies. Desirable experience, preferred qualifications and specialized skills shall be related to the classification of the position and/or the duties of the position.

9.2 At the discretion of the campus, position vacancies may be posted only on the campus for campus applicants.

9.3 An employee who believes they are qualified for a vacant position at a CSU campus or the Chancellor's Office may apply for such position within the specified application period.

An employee may submit, along with an application, a statement regarding their experience and service within the CSU. Such a statement shall be a part of the employee's application. CSU documents regarding any meritorious service by the employee at the CSU may also be submitted by the employee with an application.

It shall be the policy of the CSU to fill bargaining unit campus position vacancies as set forth in provision 9.1 from among qualified CSUEU-represented employees currently employed at a campus. This section does not apply to employees who have served in temporary emergency positions for ninety (90) days or less, as described in Section 9.9.

The President may appoint outside applicants when the President determines such action is necessary to obtain preferred or specialized skills and abilities not available from current employees per the position vacancy announcement. CSUEU represented employees who meet minimum requirements shall be interviewed.

9.4 If an employee applicant is not selected for a position for which the employee interviewed, the employee shall be notified in writing that the employee was not selected.

9.5 An employee who submits an application for a position may be required to successfully complete job-related performance examination(s)/test(s) as part of the selection process. The results of such examination(s)/test(s) shall be deemed

confidential and shall not become part of the employee's official personnel file. Such examination(s)/test(s) shall be based on essential job functions identified in the position description, including any specific, posted specialized skills, and shall be administered equitably to each applicant. Upon request, an employee shall be given the results of their examination(s)/test(s).

- 9.6 Appointments shall be made by the President. Appointments may be temporary, probationary or permanent. Appointments to vacant positions shall be made through official written notification by the President. Such notification shall be provided upon employment or as soon as possible thereafter. Notification shall include the classification title, skill level (when applicable), and timebase to which the employee is being appointed, the initial salary, the name of the employee's Appropriate Administrator, the employment status of the employee, whether there is a probationary period and, if so, the length of the probationary period, and the effective date of the appointment. A copy of the position description shall be attached to the notification. A temporary appointment shall specify the expiration date of the appointment and that the appointment may expire prior to that date. The temporary employee shall be given a minimum of fourteen (14) days notice if the appointment is to be terminated prior to the specified expiration date, unless circumstances prohibit giving such notice. A temporary appointment shall not exceed the time specified in Provision 9.50. No employee shall be deemed to be appointed in the absence of such official written notification from the President.
- 9.7 The President may make an initial appointment at any salary rate within the salary range or sub-range.
- 9.8 An employee who is appointed to a position at another campus and who begins that position within six (6) months of terminating employment from the first campus, shall transfer their accumulated sick leave. The transfer of retirement credit is pursuant to the regulations of CalPERS. When an employee accepts an appointment at another campus, the employee shall be cashed out of any earned vacation credits unless the employee requests and the new campus agrees, before the employee separates from the initial campus, to transfer all or a portion of the vacation credit to the new position.

#### Emergency Appointment

- 9.9 Emergency temporary positions of one hundred eighty (180) days or less are not required to be posted. Emergency temporary appointments may not exceed one hundred eighty (180) days. On the ninety-first (91<sup>st</sup>) day of such an appointment, the employee shall be included in the bargaining unit.

### Probation/Permanency

- 9.10 A probationary period is the period of credited service an employee who has received a probationary appointment shall serve prior to permanent status.

### Probationary Period/Credited Service

- 9.11 The probationary period for an employee is one (1) year of service in a particular classification or skill level.
- 9.12 Part-time and full-time temporary service shall count as credited service for probation when granted by the President. Part-time employees must have a timebase of at least 0.5 in order to be considered probationary employees and qualify for permanent status.
- 9.13 A year of service for employees in twelve (12) month positions is any consecutive twelve (12) months of full-time employment. The period of probation for an employee in a half-time or more, but less than full-time, position is one year of service.
- 9.14 For employees serving in ten (10) month positions, a year of service is the equivalent of ten (10) months of full-time employment within a twelve (12) month period of time. The ten (10) months of required service for each twelve (12) month period shall be determined by the President upon appointment of the employee to a ten (10) month position.
- 9.15 A year of service for an employee in an academic year position is two (2) consecutive semesters or three (3) consecutive quarters of employment within an academic year at a timebase of at least 0.5.

### Suspension of Service Credit

- 9.16
- a. When a probationary employee goes on a leave of absence, the time served before the leave is counted in determining the remaining length of probationary service. Upon return to work, the employee shall be notified when the probationary period will end.
  - b. An employee's probationary period is extended for the same number of days such employee is on paid sick leave or family medical leave of over thirty (30) days, parental leave, and for any day an employee is on Workers' Compensation (WC), Industrial Disability Leave (IDL), Non-Industrial Disability Insurance (NDI), Military Leave or formal leave without pay (LWOP).

The President shall determine if the employee's probationary period should be extended when a full-time probationary employee is placed on a partial leave.

- c. Normally, a new probationary period shall be served when an employee begins an appointment at another campus. However, the employee may be appointed with permanent status or credit toward permanency as determined by the President of the campus to which the employee is appointed.

### Change in Position

9.17 The employee selected for a position that requires movement to a new classification or skill level may serve a new probationary period.

- a. If an employee is reclassified, the employee may be required to serve a new probationary period. The length of service required for such a new probationary period shall be determined by the President and shall not exceed one (1) year from the effective date of the reclassification.
- b. A permanent employee in a position that is reclassified as a result of the implementation of a new classification or the revision of a current classification shall not be required to serve a new probationary period, provided the employee has completed probation in their current classification and there has been no substantial change in the employee's duties.
- c. A probationary employee in a position that is reclassified as a result of the implementation of a new classification or the revision of a current classification shall have all probationary service in their prior classification credited toward probation in the new or revised classification, provided there has been no substantial change in the employee's duties.

9.18 An employee with permanent status in a lower classification or skill level who is advanced to a higher classification or skill level and is denied permanent status in the higher classification or skill level, shall have the right to return to the lower classification or skill level with permanent status in that class.

An employee in probationary status in a lower classification or skill level who is advanced to a higher classification or skill level and is denied permanent status in the higher classification or skill level shall be granted service credit toward completion of the probationary period in the lower classification or skill level provided the duties in the higher classification or skill level are substantially similar to the duties in the lower classification or skill level and the employee's performance in both classifications or skill levels has been satisfactory.

## Classification Change

- 9.19 When an employee moves to a lower classification or skill level in the same classification series, the appropriate salary rate in the salary range or sub-range shall be determined by combining any previous service in the lower classification/skill level and service in the higher classification/skill level.
- 9.20 When an employee moves to a lower classification or skill level in another classification series, the appropriate salary rate in the salary range or sub-range shall be determined by the President, except that in no case shall the new rate exceed the rate received in the higher classification or skill level. Determination of the appropriate salary rate in such cases shall be made by using the same criteria as would be used for an initial appointment to that classification or skill level.
- 9.21 When an employee moves to a classification or skill level with a higher salary range, sub-range or sub-range maximum, the appropriate salary rate in the salary range or sub-range shall be determined by the President. The salary rate in the higher salary range or sub-range shall be at least a five (5) percent increase. This provision does not apply to the implementation of a new classification structure when the original classifications are abolished and replaced with a new set of classifications and the employees are converted to the new classifications or skill levels.

## In-Classification Progression

- 9.22 Movement from one skill level to a higher skill level within a classification is referred to as an in-classification progression. When an in-classification progression occurs, the appropriate salary rate in the applicable sub-range shall be determined by the President. The salary increase shall be at least five (5) percent.

## Classification or In-Classification Progression Review

- 9.23 An employee may request a position classification review at any time during the year, subject to the limitation in provision 9.27. Employees in classifications with skill levels may request a skill level review related to an in-classification progression. All such requests are to be made to the Appropriate Administrator with a copy submitted to the campus Human Resources Office.
- 9.24 The classification, in-classification progression, and/or skill level review procedures shall be determined by the President. A copy of the classification or skill level review procedures shall be made available to the employee upon request and be posted on the campus website. A set of the Classification and Qualification Standards shall be available for reference on each campus.
- 9.25 The employee shall be notified in writing of the classification and/or skill level review decision and the reason(s) for the decision within thirty (30) days after the decision has been reached. If a higher classification or skill level is granted,

normally the employee shall receive the appropriate compensation of the higher classification or skill level retroactive to no later than the first day of the pay period following the date the request for the classification review was received in the campus Human Resources Office.

#### Employee Requested Classification or In-Classification Progression Review

- 9.26 An employee-requested classification and/or skill level review shall be completed no later than one hundred eighty (180) days after initiation of the classification and/or skill level review procedure. An employee shall not submit such a subsequent request prior to twelve (12) months after completion of a previous classification review.

#### Classification and/or In-Classification Progression Appeal

- 9.27 An employee may appeal the decision of a classification and/or skill level review that was requested by either the employee or management no later than thirty (30) days after such results have been provided to the employee. Such an appeal shall be filed with the Appropriate Administrator in the Human Resources Office. Such an appeal shall include a detailed statement by the employee indicating their reasons for disagreement with the classification and/or skill level review decision. The employee shall provide a copy of such an appeal to the Appropriate Administrator to whom the employee directly reports.
- 9.28 A designated individual in the Human Resources Office shall hold a meeting with the employee and the employee's union representative, if any, no later than thirty (30) days after the classification and/or skill level review appeal filing. The designated individual should not be the same person who conducted the initial classification and/or skill level review. This individual shall respond in writing to the employee no later than thirty (30) days after the meeting with the employee. Such a response shall be final. If a higher classification or skill level is granted, normally the employee shall receive the appropriate compensation of the higher classification or skill level retroactive to no later than the first day of the pay period following the date the request for the classification review was received in the campus Human Resources Office. Upon request of an employee whose current classification is determined to be appropriate, the employee shall receive a report stating the primary reasons for the classification decision, but shall not have access to the working notes of the person conducting the classification review.
- 9.29 Provisions 9.23-9.28 shall not be subject to the grievance procedure, unless the grievant alleges the terms of this policy have been violated, misinterpreted, or misapplied. The classification and/or skill level decision shall not be subject to Article 7, Grievance Procedure.

### Rejection During Probation

- 9.30 Any probationary employee may be separated from service at any time by the President upon written notice of rejection during probation. The employee should normally be given two (2) weeks notice of rejection during probation.
- 9.31 The notice of rejection shall indicate to an employee their right to review their personnel file and review materials in the file regarding rejection.
- 9.32 A full-time employee employed for more than six (6) months, or its equivalent for an employee in a half-time or more, but less than a full-time position, may utilize the provisions of Article 8, Complaint Procedure, beginning at Level II, to appeal the decision to reject during probation when alleging:
- a. performance evaluation procedures required by the contract were not followed;  
or
  - b. arbitrary and capricious reasons for non-retention.
- 9.33 Appeals of the decision to reject during probation shall be filed at Level II of the Complaint Procedure with the Office of Human Resources within fourteen (14) days of the written notice of the rejection during probation. Said appeals may be filed by an eligible employee or the Union on the employee's behalf, and signed by the rejected employee.
- 9.34 If the complaint is not resolved at Level II, the complaint shall be moved to Level III for Chancellor's Office review.
- 9.35 By mutual agreement of the parties, the Level II meeting and response may be waived.
- 9.36 Unresolved Level III complaint appeals may be submitted solely by CSUEU to a special, permanent Umpire jointly selected by CSUEU and CSU, who shall hear all such complaints thus appealed. Appeals shall be submitted to the Office of the Chancellor, with a copy filed with the Director of Human Resources at the rejected employee's campus within ten (10) working days after the Level III response.

### Umpire Process

- 9.37 The Umpire shall schedule a hearing within 30 days of receipt of appeal at a mutually acceptable time and place.
- 9.38 Hearings shall be informal and the formal rules of evidence shall not apply. The Umpire will determine which party, if any, is the moving party and has the burden of proof. The order of hearing shall be as follows:

- a. Opening Statement by CSU
- b. Opening Statement by CSUEU
- c. Presentation of Circumstances of Rejection of Employee by CSU
- d. Presentation of Allegation (per provision 9.32) by CSUEU
- e. Rebuttal presentation by CSU
- f. Closing Statement by CSUEU
- g. Closing Statement by CSU

9.39 Witnesses may be called by the CSUEU and/or the CSU. Witnesses may testify in person or by telephone. Witnesses may be cross-examined by the other party. Relevant documents may also be admitted into evidence. There shall be no stenographic transcript or briefs. The record of the proceeding shall consist of the exhibits admitted into evidence and the notes or tape recording, if any, kept by the Umpire.

9.40 Each party shall bear the expense of preparing and presenting its own case, including representative and witness fees, and expenses. Release time shall be authorized pursuant to the provisions of Article 8.

The Umpire hearing shall be no more than one (1) day, unless the parties agree to allow more time.

9.41 The Umpire decision shall be issued in the form of a bench ruling after a brief study period at the conclusion of the hearing, but in no event later than three (3) days from the close of the hearing by way of a written decision. The authority of the Umpire is limited to affirming or revoking the decision to release from probation. The Umpire decision shall not set a precedent and shall not be cited in any other administrative or legal forum.

The campus, the Union representative and the rejected employee shall be noticed concurrently with a copy of any written decision by the Umpire. If the decision to reject during probation is revoked by the Umpire, the rejected employee shall return to work as directed by the CSU within ten (10) days following the campus' receipt of the Umpire's decision. The notice to return to work from the campus shall be sent to the rejected employee via express mail to the last address provided to the campus. Upon the employee's return to work, the employee shall be retroactively placed on leave without pay status for the period between the rejection during probation and the employee's return to work and the employee shall resume probationary status for the remainder of the employee's probationary period. No



service credit toward completion of the probationary period shall be awarded for the period of time the employee was placed on leave without pay status.

- 9.42 The Umpire shall not have the power to issue subpoenas or administer oaths. The Umpire shall rule on the specific complaint pursuant to provision 9.32 concerning the decision to reject during probation and no other matter, including claims the CSU violated the Agreement. The Umpire's decision shall be subject to limitations specified in provisions 7.25 (a) through 7.25 (d).
- 9.43 Disputes concerning interpretation and application of this procedure shall be resolved by the Umpire.
- 9.44 The decision of the Umpire shall be final and binding on the CSU, the employee and CSUEU.
- 9.45 The parties shall meet within thirty (30) days of ratification of the MOU to select an Umpire. If no agreement is reached, each party shall designate 3 nominees who are not affiliated with the CSU or CSUEU for possible selection. Parties shall alternatively strike from the combined list of 6 nominees until a single name remains that shall be designated as the Umpire. Option for first strike shall be determined by coin toss. Upon selection, Umpire shall be scheduled for a minimum of two (2) hearing dates per month for the resolution of rejection during probation cases, unless there are insufficient pending cases to warrant the scheduling of the 2 hearing dates. If the selected Umpire is unable to provide these two (2) hearing dates, or if the Umpire withdraws from the position after their selection and acceptance of appointment, the process regarding the list of six (6) nominees shall be repeated. The Umpire's term shall be for the duration of this Agreement. At the end of the Umpire's term, either party may decline reappointment. If so, the process of selecting six (6) new nominees shall be repeated. All cost of the Umpire Process shall be borne equally by both parties.
- 9.46 An employee rejected during the probationary period may not utilize the Grievance Procedure of this Agreement to appeal the decision to reject during probation.

#### Permanent Status

- 9.47 An employee who has completed the appropriate probationary period as defined in Provision 9.11 shall be awarded permanent status at the beginning of their second year of service.
- 9.48 If an employee with permanent status moves to a different classification and receives permanent status in the new classification, the employee shall not retain permanent status in the classification from which the employee moved. If an employee with permanent status in a classification receives a temporary appointment in another classification and the temporary appointment expires, the

employee shall have the right to return to the employee's prior classification with permanent status in that class.

9.49 The President shall grant permanent status to a temporary employee subject to the following conditions:

- a. The temporary employee shall have served in a Bargaining Unit Classification or classification series for at least four (4) consecutive years immediately prior to the granting of permanency.
- b. Such employee service shall have been in an appointment with a timebase of at least 0.5.
- c. A timebase shall not be reduced in the appointment immediately preceding the granting of permanency.
- d. This provision does not apply to employees in positions which are funded by non-reoccurring grants, contracts or special projects with beginning and ending dates.
- e. The employee shall become permanent at the conclusion of four (4) consecutive years. "Consecutive years" as used in this article shall be:
  1. Four (4) consecutive annual appointments on a 12 month, 10 month, 10/12 or 11/12 pay plan, or
  2. Four (4) years of continuous temporary appointments, in which there are no breaks in service/employment totaling more than ninety (90) days, within each year.

9.50 An intermittent employee who is paid one thousand (1000) hours in a fiscal year is deemed to have completed a year of service for purposes of permanent status.

9.51 The President may, at their sole discretion, grant permanent status to a temporary employee subject to the following conditions:

- a. The temporary employee shall have served in bargaining unit classifications at the campus for at least one (1) year immediately prior to the granting of permanency.
- b. Such employee service shall have been in appointments with a timebase of at least 0.5.

9.52 Such a permanent status shall include the right to continue employment at the timebase determined by the President at the time permanency is granted. The President may determine to grant such permanency at a timebase of at least 0.5.