

## **Section 5: Certifications, Appointments & Transfers**

### **Filling Vacant Positions**

#### *Section 5.01*

The Agency is an Equal Opportunity Employer and will consider all applicants accordingly, without regard to race, color, creed, religion, national origin, ancestry, age, genetic information, gender identity and gender expression, physical and/or mental disability, medical condition, sexual orientation, sex (including pregnancy, child birth and related medical conditions), marital status, military and veteran status, political affiliation, or Union membership activity. All vacancies in the Agency shall be filled by transfer, promotion, demotion, reemployment, reinstatement, or from a certified eligible list.

- A. Recruitment procedures for the position of the Executive Director shall be determined by the Governing Board of the Agency.
- B. When recruiting employees for the exempt service, the Executive Director shall use such procedures and methods as deemed appropriate.
- C. The Executive Director shall make an appointment to all available exempt positions as soon as it is reasonably possible to do so; however, as an alternative, a regular employee may be designated to temporarily assume the duties of an exempt position until such time as the exempt position may be filled. During the period in which the regular employee is performing the exempt duties, the employee shall retain all of the rights of a regular employee.
- D. Prior to appointment, candidates may be required to complete a declaration pertaining to possible conflicts of interest or contractual relationships with the Agency.
- E. A vacancy within the Head Start Grantee Operated Program will not be filled until concurrence is reached between the CFS Deputy Director and the Policy Council.

## Appointments

### *Section 5.02*

- A. For each vacancy in the regular service, the Human Resources Department Chief shall certify those on the eligible list(s). With exception of a reemployment list, if an eligible list contains less than five (5) available candidates, or does not exist for the class in which requisition is made, the Human Resources Chief may certify from a comparable eligible list of substantially the same or higher level.
- B. No Head Start funds may be obligated for payment of salary to any regular employee until the employee has cleared fingerprinting, passed a physical examination, successfully completed a Tuberculosis screen and obtained appropriate adult immunizations.
- C. The Appointing Authority may examine applications, examination records, and any reports of background investigation of the eligible person certified.
- D. The Appointing Authority may conduct any additional investigations or tests of fitness, which are job related.
- E. Appointments made may be subjected to a probation period.
- F. After the interview and any investigation desired, the Executive Director or Appointing Authority may make appointments from among those candidates approved by the Appointing Authority and Policy Council, as applicable.
- G. Appointments are made by the Executive Director normally at the first step in the salary range. Appointments at a step higher than the first step will only be made with the approval of the Executive Director and notice will be provided to the Union.
- H. If the eligible person(s) fails to present her/himself for duty at the time and place agreed upon, without a good cause, she/he shall be deemed to have declined the appointment.
- I. Appointments may be made to exempt, probationary, regular, or temporary status.
- J. Probationary Appointment
  - 1. An appointment where the incumbent will serve a six-month or designated probationary period during which she/he must demonstrate satisfactory performance in order to achieve regular status.
  - 2. During her/his probation the employee may be released from Agency service, with or without cause, without the right of appeal.

**K. Regular Appointment**

1. An appointment where the probation period has been satisfactorily served by the incumbent.
2. Continuity of employment is contingent continued funding.
3. There is no status, or right of transfer, to either the City of Sacramento or County of Sacramento.

**L. Temporary Appointment**

1. An appointment where the incumbent is hired to perform specific tasks in relation to a specific project and for a specified period of days.
2. When deemed essential to the work program, the Executive Director may establish temporary positions that are not provided for in the position and salary plans, subject to confirmation by the Governing Board and Policy Council at its next regular meeting.
3. The salaries established for such positions will not exceed the hourly rate of pay set forth in the salary plan for the full-time employees with comparable qualifications or duties.
4. A probation period does not apply to a temporary employee, nor will she/he be entitled to any benefits afforded regular or full-time employees.

**M. Exempt Appointment**

1. The appointment of a qualified person to fill a position for which there is no probationary period and the incumbent serves at the pleasure of the appointing authority. Just cause is not required for discipline and there is no appeal right.

**N. Appointment at Lower Levels**

1. The Executive Director, Head Start Department Chief or Appointing Authority may, when she/he deems it appropriate, fill vacant positions at a lower classification level than that authorized in the position plan.

## Medical Standards

### *Section 5.03*

Upon appointment, re-employment, recall, or return from a medical leave of absence, the employee may be required to be examined by an Agency physician.

#### **Operational Procedure:**

- A. The examining physician shall submit on forms provided by the Administration Department Chief, a medical report certifying the medical fitness of said employee for the type of work to be performed.
- B. The Administration Department Chief may, upon recommendation of the Agency physician, grant a reasonable period in which to clear up, cure or remove any medical condition that is temporary in nature.
- C. If the employee cannot meet the medical requirements of the position, or perform the essential duties of the position with or without reasonable accommodation, the conditional employment offer shall be withdrawn.
- D. Persons who are disabled as defined by the Federal and State laws who are otherwise qualified and who can perform the essential duties of the position with or without reasonable accommodation will be considered for employment.
- E. Health examinations, if required, shall be given prior to the effective date of appointment.
- F. Candidates may request a review of the examination results.
- G. Medical examination records are retained by the Agency physician and remain confidential.
- H. Pursuant to Article 45 CFR Part 1304.52(3)(j) of the Head Start Performance Standards, all Head Start employees shall have an initial health examination that includes screening for tuberculosis.
- I. Tuberculosis screening for Head Start employees shall be re-done yearly.

## **Fingerprinting**

### *Section 5.04*

- A. In accordance with Federal Regulations, all employees who regularly come into contact with children while performing their duties must be fingerprinted within four days of the first day of employment. Fingerprinting before the first day of employment is preferred. Employees shall not be placed at a Head Start Facility until fingerprint clearance is obtained.
- B. Failure to comply with fingerprinting regulations will result in termination or refusal of appointment.

## **Criminal History Information**

### *Section 5.05*

The Administration Department Chief, in conjunction with the Appointing Authority, shall designate job classifications or positions within job classifications for which a review of criminal history information is a condition of employment.

- A. The designation for such a requirement will be based on the relationship of criminal convictions to applicable statutory requirements, the qualifications, responsibilities, duties, and sensitivity of the job classifications or positions.
- B. The designation will include a determination as to whether criminal convictions will preclude appointment or whether the Administration Department Chief may certify candidates with criminal convictions for appointment, with consideration to:
  - 1. The nature and seriousness of the offense;
  - 2. The circumstances under which the offense occurred;
  - 3. When the offense took place;
  - 4. Age of the persons at the time the offense was committed;
  - 5. The offense within the context of the total pertinent criminal history record (isolated or repeated violation)
  - 6. Evidence of rehabilitation
- C. When a class or position has been designated as requiring a review of criminal history information, any appointment to the class or position shall be contingent on a review by the Administration Department Chief and the Appointing Authority, of criminal history information not disclosing conviction of crimes which preclude employment.
- D. The Administration Department Chief may suspend an applicant from an employment list when the applicant has been charged with a crime in which a conviction would preclude employment until disposition of the charges.
- E. The Administration Department Chief and the Appointing Authority shall obtain and review criminal history information concerning incumbents of designated job classifications to a position when:
  - 1. In the opinion of the Administration Department Chief, if there is reason to believe that such information exists and that it is material to the competence of the employee in question.
  - 2. Upon re-appointment after resignation or separation; or
  - 3. Upon application for employment to a classification other than that held for which criminal history information is required pursuant to all applicable regulations.

- F. The Administration Department Chief and the Appointing Authority are authorized to seek and obtain access to state summary criminal history information from the Attorney General respecting all applicants for or incumbents in job classifications to positions designated as requiring a review of criminal history information.
- G. Pursuant to law, the Administration Department Chief is authorized to require that applicants and employees be fingerprinted for the purpose of obtaining criminal history records.
- H. The Administration Department Chief or designee must maintain custody and control of criminal history records obtained to carry out this Regulation. The records will be accessible only to the Administration Department Chief or designee, the Appointing Authority, SETA Legal Counsel plus designee, persons to whom the records pertain, or to a person who has authorized access in writing by the person(s) whom the record pertains. Criminal history records shall be retained for a period required by State and Federal law. After such time, the criminal history records shall then be destroyed.
- I. Federal policies require that Head Start agencies require all prospective employees to sign a criminal history declaration prior to employment.

## **Temporary Assignment of Higher Duties**

### *Section 5.06*

- A. When the Appointing Authority or designee requires in writing that an employee perform substantially all of the duties of the higher classification, or duties which, in the judgment of the Appointing Authority, are substantially higher than the level of duties normally assigned, the employee shall receive additional compensation.
- B. The employee shall be compensated for the percentage of time worked in such higher assignment by the payment of an additional five percent (5%) above the employee's base salary.
- C. Such pay shall begin on the third consecutive full working day following assignment or the third cumulative workday in a thirty (30) calendar day period.
- D. If an employee is assigned in writing to perform supervisory duties which are outside of his/her regular job classification, the employee will be compensated for the hours worked performing such additional duties by the payment of an additional five percent (5%) above the employee's base salary.
- E. For employees working in a supervisory assignment, such higher assignment pay shall begin on the first day of the assignment of higher duties after working three (3) consecutive full working days.
- F. Temporary assignment of higher duties shall be for no more than sixty (60) consecutive working days, except as follows:
  - 1. Illness
  - 2. Vacation relief
  - 3. Sick leave relief
  - 4. Leave of absence
  - 5. During the promotional examination process
  - 6. Conditions of extended emergency
- G. If it is anticipated that a temporary assignment of higher duties will continue beyond sixty (60) consecutive working days, the Executive Director or Designee may temporarily reclassify the employee in accordance with section 5.08 of these rules.



## **Temporary Reclassification**

### *Section 5.07*

An employee may be temporarily reclassified by the Appointing Authority to a position in a higher classification on an acting basis.

- A. When an employee is assigned to perform essentially all the duties of the higher class, the employee shall be paid on the basis of the wage range for the classification in which the work is being performed.
- B. The employee shall receive the step A of the higher classification or a minimum of five percent (5%) above the regular base pay of the employee in the current classification, provided that in no event shall the wage rate paid to the employee exceed the maximum wage of the higher classification.
- C. The Executive Director may authorize payment in excess of five percent (5%) but no more than Step "E" of the higher classification.
- D. The Appointing Authority may at any time revoke or terminate the temporary reclassification assignment.
- E. If at any time, an employee who has filled a position on a temporary basis is promoted to the position through the selection process, the employee shall serve a full probationary period in the new position from the date of the promotion unless in the judgment of the Appointing Authority, such a probationary period is not required.
- F. Employees serving in temporary reclassification shall be entitled to receive the benefits of regular employees.
- G. Temporary reclassifications shall not exceed a one year duration.
- H. Time served in a temporary reclassification shall not change the employee's anniversary date for the purpose of receiving annual step increases in the prior class.
- I. Upon expiration of the term, the employee shall be automatically reallocated to the classification formerly held.

## Transfers

### *Section 5.08*

An employee may transfer/be transferred (voluntarily or involuntarily) from one unit to another, within the same class.

- A. When a regular vacancy occurs, employees holding regular status in that classification may request to be transferred to such vacancy.
- B. A regular employee in another classification with a salary not more than or less than five percent (5%) from the salary range of the new classification may also request transfer, provided the employee meets the minimum qualifications of the new classification.
- C. Regular qualified employees requesting transfer may be interviewed.
- D. For a regular employee to be considered for transfer, a written transfer request, on a form provided by the Agency, must be filed with Personnel. The Agency may also require an application or supplemental information be provided to determine if the employee meets minimum requirements.
- E. Such transfer request shall be valid through December 31 of the calendar year during which it was filed.
- F. Employees on probation shall not be eligible for a voluntary transfer.
- G. An employee may not transfer to a class for which the employee is not qualified.
- H. Upon successful completion of the interview process, an employee may be transferred at any time to any other position within the same classification or to a comparable classification. For purposes of this Section, a comparable classification is:
  - 1. One in which the salary range of the classification is equal to or does not exceed by more than five percent (5%) the salary range of the employee's present classification and,
  - 2. For which the employee meets the minimum qualifications.
- I. A transfer from an unrepresented classification to a represented classification is permitted if a vacancy exists.
- J. A transfer may be made without the consent of the employee; however, the employee shall be given five (5) working days notice prior to a permanent involuntary transfer.

- K. Temporary involuntary transfers due to emergency situations and/or business necessity shall not be subject to the five (5) days notice requirement.
- L. The Agency will not intentionally use temporary involuntary transfers to circumvent the notice requirements.
- M. The Policy Council must approve transfers into the program if such transfers represent new hires into the Head Start program.

## **Reinstatement**

### *Section 5.09*

A person who has resigned from Agency service in good standing with regular status may petition for reemployment within one (1) year from the date of resignation.

- A. Persons qualifying under this Policy may be placed on a reemployment list for one year from date placed on list for the classification where permanent status was held last and may be considered for appointment when openings occur in the classification.
- B. Appointment is at the discretion of the Appointing Authority.
- C. Such employee(s) re-employed may receive a starting salary higher than Step "A," but not exceeding the step received at the time of resignation at the discretion of the Appointing Authority.
- D. The employee shall be required to serve a new probationary period.
- E. An employee, who has completed the probationary period and who has vacated a regular position to accept a temporary appointment in a higher class in the Agency, shall have the right to reinstatement to the former class upon the termination of his/her temporary appointment, unless the termination of the temporary appointment was for reasons which, under normal circumstances, are cause of termination.
- F. Persons appointed from a reemployment list may be required to pass a physical examination provided at Agency expense, to certify that they are physically capable of performing the duties of the position.

## **Reemployment**

### *Section 5.10*

Persons who formerly held regular status and who have been laid off are entitled to preference in appointments to vacancies in that class from which they were laid off.

- A. The names of such employees shall be placed on a reemployment list which shall be used to make appointments in the classification and Department from which they were laid off in preference to all other eligible lists.
- B. The person with greatest seniority on the reemployment list for the classification shall be offered an appointment first.
- C. When a vacancy exists and employees are to be reemployed, notice of the opening(s) shall be sent to the most current mailing address as shown on the Personnel records.
- D. To expedite reemployment, more than one employee may be notified of an opening.
- E. The reemployment notice shall be by certified mail, return receipt requested, and the employee shall be given three (3) working days to inform the Agency of acceptance of the re-employment offer.
- F. If said employee fails to report to work, she/he will lose all reemployment rights. The person with the next highest seniority shall be offered the appointment.
- G. An employee who has been laid off shall be required to meet the qualifications of the classification to which she/he is reemployed.
- H. If the person offered the appointment is temporarily medically incapacitated, the appointment may be waived without affecting her/his position on the reemployment list.
- I. The names of persons included on reemployment lists shall be removed two (2) years after the effective date of layoff.
- J. Persons appointed from a reemployment list may be required to pass a physical examination provided at Agency expense to certify that they are physically capable of performing the duties of that position.
- K. A copy of the notice shall be served upon the employee either personally, or by registered or certified mail, return-receipt requested.
  - a. Personal service – Any written notice shall be conclusively presumed to be delivered to the employee on the date the written notice is personally served on the employee.
  - b. Certified mail - - receipt returned. In the event any notice is sent to an employee by certified mail, return receipt requested, the notice shall be

conclusively presumed to be delivered to the employee on the date the receipt was signed by the employee or any other adult person residing with the employee at the address to which the certified mail is sent.

- c. Certified mail - - receipt not returned. In the event the certified mail is refused, or in the event the employee has moved or is absent without leave, and no person at the address to which the certified mail is sent signs for the certified mail, a copy of the notice shall be deposited in the regular mail addressed to the employee at the employee's last-known address. It shall be presumed the notice was delivered as of the date the copy of the notice was delivered in the regular mail following return of the certified mail

## **Demotion**

### *Section 5.11*

Any employee, with the approval of the Executive Director or Appointing Authority, may request a voluntary demotion to a vacant position.

- A. The Executive Director or Appointing Authority may approve such demotion after investigation into the request.
- B. If the class to which the demotion is proposed requires employment standards including knowledge or abilities not measured by the examination for the class from which demotion is proposed, the Executive Director or Appointing Authority may examine the employee, for possession of these employment standards.
- C. An employee who voluntarily demotes shall be placed at the salary range closest to the employee's current salary.

## **Nepotism**

### *Section 5.12*

It is the policy of the Agency that when employees are related as specified below, such persons will not have direct or indirect supervisory relationships.

- A. “Immediate family member” is defined as husband, wife, brother, sister, mother, father, son, daughter, grandmother, grandfather, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, step-father, step-mother, step-son, step-daughter, or domestic partner as defined in City Ordinance 92-058.
- B. No applicant will be employed when an immediate family member of the applicant serves on a Board or Policy Council which, either by rule or by practice, regularly nominates, recommends or screens.
- C. No employee will be placed in a job when that employee or her/his immediate family member serves on a Board or Policy Council which has the authority to order personnel actions affecting her/his job.
- D. No employee shall be supervised by an immediate family member.



## **Personnel Records**

### *Section 5.13*

The official personnel file for each individual employed by the Agency will be maintained in the Personnel Department.

- A. This confidential file will represent the official record of an individual's employment with the Agency.
- B. An employee shall be entitled to make an appointment to review her/his personnel records. Such appointments shall be scheduled in advance for a reasonable time period, during the normal business hours for the Personnel Unit.
- C. Such appointments may be scheduled during working hours with the advance approval of the employee's supervisor.
- D. Employee personnel records shall be subject to inspection only by the employee concerned and authorized Agency personnel except as otherwise provided by law.
- E. Information which cannot be treated as confidential include: name, job title, salary range, and dates of employment.
- F. All information in the files may be subject to public disclosure by court order.
- G. No persons, other than those stated in Section D above, shall be allowed to inspect an employee's personnel record without the express written authorization of the employee.
- H. Upon request, an employee or her/his expressly authorized representative shall have the right to inspect and review any official record relating to his/her performance as an employee which is kept or maintained by the Agency, provided that confidentiality of sources shall be exempt from disclosure. The content of such records shall be made available to the employee for inspection and review at reasonable intervals during regular business hours.
- I. Any regular employee receiving a performance evaluation about which he/she disagrees may, within ten (10) working days from the date of the evaluation, write a one page rebuttal statement for attachment to the evaluation and informally appeal to the supervisor of the reviewer, but in case higher the Director.
- J. An employee shall be provided with a copy of a performance appraisal, disciplinary letter, letter of commendation, or other document before they are placed in the employee's personnel file.
- K. If at any time it is determined that a personnel action, i.e. reprimand or performance appraisal, was unjustified or inaccurate, the appropriate corrections shall be made by removing the inaccurate document, or reducing the corrections to writing and placing the information in the personnel file.

- L. Personnel files are kept confidential in locked file cabinets.

## **Temporary Staff**

### *Section 5.14*

It is the policy of the agency to utilize temporary staff only as needed to ensure that the Agency's needs are met.

- A. Utilization of Temporary Staff: In order to utilize temporary staff approval must be obtained from the Executive Director. In getting approval you must state the position, the expected number of hours and the anticipated duration of the assignment.
- B. Benefits: In accordance with the Affordable Health Care Act:
  - a. Temporary employees who are on the payroll that are expected to work an average of 30 hours a week or 1,560 hours or more for the year will be automatically enrolled in the Agency/County medical benefits, unless they choose to decline coverage.
  - b. Temporary employees who are on the payroll that are not expected to work an average of 30 hours a week or more for the year will not be offered medical benefits. After 12 months of employment their hours will be reviewed and if the average hours were 30 hours or 1,560 hours or more they will be automatically enrolled in medical benefits, unless they choose to decline coverage.
  - c. The Agency determines temporary employee's eligibility to participate in Agency/County medical benefits, unless they choose to decline coverage.
- C. In the event that any of the terms or provisions of this policy are declared invalid or unenforceable by any Court of competent jurisdiction or any Federal or State Government Agency having jurisdiction over the subject matter of this Agreement, the remaining terms and provisions that are not affected thereby shall remain in full force and effect.
- D. In the event that any of the terms or provisions of this policy are altered due to changes in Local, State, or Federal law those changes will take effect in lieu of the terms outlines in this policy, the remaining terms and provisions that are not affected thereby shall remain in full force and effect.