

MIRACOSTA COLLEGE DEPARTMENT/DIVISION REORGANIZATION PROCEDURES

A. Definitions

Reclassification – A change in grade of an existing or previously classified position. The district may reclassify positions when there has been a substantive, measurable change in job content and degrees of responsibility or a restructuring of roles within a department as a result of:

1. Significant changes in job responsibilities and job duties such that the position description does not accurately describe the nature of the current position
2. Reorganizations
3. The labor market value of the position has changed significantly

Examples of Reclassifications

- An Assistant Support Assistant II has, over time, had an accretion of duties consistent with an Administrative Support III.
- An Analyst was upgraded in classification, as a result of a reorganization
- The district has taken on a classification and compensation study and is implementing changes in salary range for the affected classifications due to changes in labor market value.

Reorganization – is defined as follows:

1. The transfer of the whole or any part of the functions or assignments of any supervisory organization to another supervisory organization; or
2. The consolidation or coordination of the whole or any part of the functions or assignments of any supervisory organization with the same, or other, supervisory organization; or
3. The abolition of all or any part of the functions or assignments of any supervisory organization; or
4. The establishment of the functions or assignments within a new supervisory organization to perform the whole or any part of the functions of an existing supervisory organization.

Examples of a Reorganization

1. One department and all of its employees are transferred from one VP to another.
2. A manager position is abolished and consolidated and into two new supervisor positions.
3. New funding establishes a new classification for a supervisory organization.

The addition or elimination of the number of jobs within an existing classification and supervisory organization, insignificant changes in position duties, or changes in assignment within a supervisory organization such as changes in shifts or locations do not constitute a reorganization or reclassification. Reorganizations are not to be used as a means to avoid within and outside recruitments when upgrading classifications and the full definition of reorganizations should be considered when developing a reorganizational proposal.

Distinction Between Reclassification and Reorganization – Reclassifications that are a result of a long-term accretion of job duties, significant changes in minimum requirements/qualifications, or changes in regulatory requirements are considered reclassifications. Reclassifications that are a result of immediate changes that result in grade changes and revised job descriptions including being upgraded or renamed may be part of a reorganization. Reclassifications can occur without the implementation of a reorganization, and reorganizations can occur without the implementation of a reclassification.

Vacancy – For purposes of this section, a vacancy is not created, and within and outside recruitments are not required, when:

1. There is a reorganization that does not result in a net increase in the number of employees;
2. One or more lateral transfers are made and there is no net increase in the number of employees;
3. A position which is currently occupied by an incumbent is upgraded, reclassified, or renamed without significantly altering the duties being performed by the individual;
4. The position is filled by a temporary, short-term, or substitute employee appointed pursuant to Education Code sections 87422, 87480, 87482.5(b), 88003, 88106 or 88109;

B. Recruitment Requirements

Reclassifications of an incumbent being upgraded, reclassified, or renamed by significantly altering the duties being performed by the individual and are not part of a reorganization require a recruitment from both within and outside the district work force.

Upgrading incumbents that are part of a reorganization and that results in no vacancy do not require a recruitment from both within and outside the district work force. This applies to reorganizations within a department or division that does not result in a net increase in the number of employees. Promotional appointments may be based on letters of interest submitted to the division executive from interested employees within the department(s)/division(s) affected by the reorganization. Promotional appointments without recruitments are not a standard, but a possibility, and can consistently be considered if it is in the best interest of the college and students. Division executives are to strongly lean towards advertising and recruitment nationally but every now and then, conditions may warrant permanent appointments as a result of a reorganization.

C. Department/Division/District Reorganizations

The district may engage in reorganizations for business reasons including cost savings, expediency in processes, combination or separation of jobs, elimination of programs, or growth of new initiatives and generally involve changes in jobs or structures. These changes may affect departments, divisions, or the entire district. Reorganizations are to be defined and well-planned to minimize disruption of the district's business.

D. Division Executive Review and Approval of Proposals for Reorganization

The division executive (President's division or VP division) shall review reorganization proposals for the following conditions:

1. The reorganization considers the financial impact to the college. Financial analysis that includes comparing ranges between affected classifications will use Step 3 without longevity pay in the analysis.
2. The allocation of funding has been accurately determined and will be appropriately implemented.
3. The reorganization will support the district's mission, vision, values, goals and commitment statement and does not conflict with Board policies and procedures (e.g. conflict of interest, nepotism, etc.).
4. Considerations/communicate with those affected (employees, supervisors, senates and employee groups) by the reorganization.
5. Considerations of impacts for appropriate promotional appointments of qualified employees, the impact of potential layoffs, and unnecessary recruitments.

The approval by the division executive certifies that the proposal has fulfilled all three conditions listed above. If a proposal does not satisfy each of the above-mentioned three conditions, the division executive should not approve the proposal. If approved, the proposal is submitted to superintendent/president for review.

E. Superintendent/President Review and Approval

The superintendent/president will analyze the proposal and will make a determination regarding further consultation required. Considerations for consultation include:

- Impacts related to hours, wages, or enumerated terms and conditions of employment (promotions, demotions, reclassifications, reporting structure).
- Those affected (employees, supervisors, senates and employee groups) impacted by the reorganization.

Reorganizations involving changes in organization structure, business processes, leadership changes, promotions, demotions, elimination of positions, or creation of new positions, and significant changes in position duties must have the approval of the Board of Trustees.

Upon approval of the proposal (Board of Trustees or the superintendent/president), the division executive will submit personnel requisitions reflective of the changes specified in the proposal to Human

Resources and Human Resources shall provide a notice of the changes to those affected by the action.

References:

- Title 5 CCR § 53021
- Government Code: Title 2, Division 3, PART 2, Chapter 1, Article 7.5 [12080-12081.2]

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Title 5 CCR § 53021

§ 53021. Recruitment.

- (a) Except as otherwise provided in this section, community college districts shall actively recruit from both within and outside the district work force to attract qualified applicants for all vacancies. This shall include outreach designed to ensure that all persons are provided the opportunity to seek employment with the district. The requirement of open recruitment shall apply to all full-time and part-time vacancies in all job categories and classifications, including, but not limited to, faculty, classified employees, categorically funded positions, and all executive/administrative/managerial positions. Recruitment for full-time faculty and educational administrator positions shall be at least statewide and, at a minimum, shall include seeking qualified applicants listed in the California Community Colleges Equal Employment Opportunity Registry and posting job announcements with the Registry. Recruitment for part-time faculty positions may be conducted separately for each vacancy or by annually establishing a pool of eligible candidates, but in either case full and open recruitment is required consistent with this section.
- (b) (1) "In-house or promotional only" recruitment shall not be used to fill any vacancy for any position described in subdivision (a) except when the position is being filled on an interim basis for the minimum time necessary to allow for full and open recruitment; provided however, that no interim appointment or series of interim appointments exceeds two years in duration.
- (2) Where in-house or promotional only recruitment is utilized to fill a position on an interim basis pursuant to subdivision (b)(1), all district employees shall be afforded the opportunity to apply and demonstrate that they are qualified.
- (3) The job announcement for the interim position shall comply with section 53022 and the selection process shall be consistent with the requirements of this subchapter.
- (c) For purposes of this section, a vacancy is not created, and the requirements of subdivisions (a) and (b) do not apply, when:
- (1) there is a reorganization that does not result in a net increase in the number of employees;
- (2) one or more lateral transfers are made and there is no net increase in the number of employees;
- (3) a position which is currently occupied by an incumbent is upgraded, reclassified, or renamed without significantly altering the duties being performed by the individual;
- (4) the faculty in a division or department elect one faculty member to serve as a chairperson for a prescribed limited term;

(5) the position is filled by a temporary, short-term, or substitute employee appointed pursuant to Education Code sections 87422, 87480, 87482.5(b), 88003, 88106 or 88109;

(6) a part-time faculty member is assigned to teach the same or fewer hours he or she has previously taught in the same discipline without a substantial break in service. For purposes of this section, “a substantial break in service” means more than one calendar year or such different period as may be defined by a collective bargaining agreement; or

(7) an individual not currently employed by the district, who is specially trained, experienced, and competent to serve as an administrator, and who satisfies the minimum qualifications applicable to the position, is engaged to serve as an administrator through a professional services contract. No appointment or series of appointments pursuant to this provision may exceed a period of two years.

Note: Authority cited: Sections 66271.1, 66700 and 70901, Education Code. Reference: Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135, 11136, 11137, 11139 and 11139.8, Government Code.

ARTICLE 7.5. Executive Reorganization [12080 - 12081.2]

(Heading of Article 7.5 renumbered from Article 7 (as added by Stats. 1967, Ch. 1540) by Stats. 1968, Ch. 449.)

12080.

As used in this article:

(a) “Agency” means any statewide office, nonelective officer, department, division, bureau, board, commission or agency in the executive branch of the state government, except that it shall not apply to any agency whose primary function is service to the Legislature or judicial branches of state government or to any agency that is administered by an elective officer. “Agency that is administered by an elective officer” includes the State Board of Equalization but not a board or commission on which an elective officer serves in an ex officio capacity.

(b) “Reorganization” means:

(1) The transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency; or

(2) The abolition of all or any part of the functions of any agency; or

(3) The consolidation or coordination of the whole or any part of any agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof; or

(4) The consolidation or coordination of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof; or

(5) The authorization of any nonelective officer to delegate any of his functions; or

(6) The abolition of the whole or any part of any agency which agency or part does not have, or upon the taking effect of a reorganization plan will not have, any functions.

(7) The establishment of a new agency to perform the whole or any part of the functions of an existing agency or agencies.

(c) "Resolution" means a resolution of either house of the Legislature resolving as follows:

"That the does not favor
(Assembly or Senate)
Reorganization Plan No. transmitted to
(Insert number of plan)
the Legislature by the Governor on
(Insert date of transmittal)
and recommends that the plan be assigned to the
.
(Insert appropriate committee)

(Amended by Stats. 1971, Ch. 1612.)

12080.1.

The Governor, from time to time, shall examine the organization of all agencies and shall determine what changes therein are necessary to accomplish one or more of the following purposes:

- (a) To promote the better execution of the laws, the more effective management of the executive and administrative branch of the state government and of its agencies and functions and the expeditious administration of the public business;
- (b) To reduce expenditures and promote economy to the fullest extent practicable consistent with the efficient operation of the state government;
- (c) To increase the efficiency of the operation of the state government to the fullest extent practicable;
- (d) To group, consolidate and coordinate agencies and functions thereof as nearly as possible according to major purposes;
- (e) To reduce the number of agencies by consolidating those having similar functions under a single head and to abolish such agencies or functions thereof as may not be necessary for the efficient operation of the state government;
- (f) To eliminate overlapping and duplication of effort.

The Legislature declares that the public interest requires the carrying out of the purposes set forth in this section, and that such purposes may be accomplished more speedily and effectively under this article than by the enactment of specific legislation.
(Added by renumbering Section 12071 (as added by Stats. 1967, Ch. 1540) by Stats. 1968, Ch. 449.)

12080.2.

Whenever the Governor finds that reorganization is in the public interest, he shall prepare one or more reorganization plans in the form and language of a bill as nearly as practicable and transmit each, bearing an identifying number, to the Legislature, with a declaration that, with respect to each reorganization included in the plan, he has so found. The delivery to both houses may be at any time during a regular session of the Legislature. The Governor, in his message transmitting a reorganization plan, shall explain the advantages which it is probable will be brought about by the taking effect of the reorganization included in the plan, and he shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function. Reorganization plans submitted to the Legislature pursuant to this section shall express clearly and specifically the nature and purposes of the plan or plans. Upon receipt of a reorganization plan, the Rules Committee of the Senate and the Speaker of the Assembly shall refer the plan to a standing committee of their respective houses for study and a report. Such report shall be made at least 10 days prior to the end of the 60-day period described in Section 12080.5 and may include the committee's recommendation with respect to a resolution. A resolution, by floor motion, as defined in subdivision (c) of Section 12080, may only be in order following a committee report or at any time during the last 10 days prior to the end of the 60-day period described in Section 12080.5. Such resolution shall be voted upon without referral to committee.
(Amended by Stats. 1971, Ch. 1612.)

12080.3.

Each reorganization plan transmitted by the Governor under this article:

(a) May change the name of any agency affected by a reorganization and the title of its head, and shall designate the name of any agency resulting from a reorganization and the title of its head.

(b) May include provisions, in accordance with Article VII of the California Constitution, for the appointment of the head and one or more other officers of any agency, including an agency resulting from a consolidation or other type of reorganization, if the Governor finds, and in his or her message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are in the public interest. The head may be an individual or a commission or board with two or more members. In any case, the appointment of the agency head shall be subject to confirmation by the Senate. The term of office of any appointee, if any is provided, shall be fixed at not more than four years. The Legislature shall fix the compensation of all department heads and officers who are not subject to Article VII of the California Constitution.

(c) Shall provide for the transfer of employees serving in the state civil service, other than temporary employees, who are engaged in the performance of a function transferred to another agency or engaged in the administration of a law, the administration of which is transferred to the agency, by the reorganization plan. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service.

(d) Shall provide for the transfer or other disposition of the personnel records and property affected by any reorganization.

(e) Shall provide for the transfer of unexpended balances of appropriations and of other funds available for use in connection with any function or agency affected by a reorganization, as the Governor deems necessary by reason of the reorganization, for use in connection with the functions affected by the reorganization or for the use of the agency that has these functions after the reorganization plan becomes effective. Transferred balances shall be used only for the purpose for which the appropriation was originally made.

(f) Shall provide for terminating the affairs of any agency abolished.

(g) Shall enumerate all acts of the Legislature that will be suspended if the reorganization plan becomes effective.

(Amended by Stats. 2004, Ch. 183, Sec. 143. Effective January 1, 2005.)

12080.4.

No reorganization plan shall provide for, and no reorganization under this article shall have the effect of:

(a) Continuing any agency beyond the period authorized by law for its existence, or beyond the time when it would have terminated if the reorganization had not been made;

(b) Continuing any function beyond the period authorized by law for its exercise, or beyond the time when it would have terminated if the reorganization had not been made;

(c) Authorizing any agency to exercise any function which is not expressly authorized by law to be exercised by an agency in the executive branch at the time the plan is transmitted to the Legislature;

(d) Increasing the term of any office beyond that provided by law for the office; or

(e) Abolishing any agency created by the California Constitution, or abolishing or transferring to the jurisdiction and control of any other agency any function conferred by the California Constitution on an agency created by that Constitution.

(Added by renumbering Section 12074 (as added by Stats. 1967, Ch. 1540) by Stats. 1968, Ch. 449.)

12080.5.

Except as otherwise provided in this section, a reorganization plan submitted pursuant to this article shall become effective the first day after 60 calendar days of continuous session of the Legislature after the date on which the plan is transmitted to each house or at a later date as may be provided by the plan, unless, prior to the end of the 60-calendar-day period, either house of the Legislature adopts by a majority vote of the duly elected and qualified members thereof a resolution, as defined in subdivision (c) of Section 12080.

As used in this section "60 calendar days of continuous session" shall be deemed broken only by an adjournment sine die, but in computing the 60 calendar days for the purposes of this provision days on which either house is not in session because of a recess of more than 10 days to a day certain shall not be included.

(Amended by Stats. 1974, Ch. 1242.)

12080.6.

No reorganization plan shall have the effect of limiting in any way the validity of any statute enacted, or any regulation or other action made, prescribed, issued, granted or performed in respect to or by any agency before the effective date of the reorganization plan except to the extent that the plan specifically so provides.

As used in this section “regulation or other action” means any regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(Added by renumbering Section 12076 (as added by Stats. 1967, Ch. 1540) by Stats. 1968, Ch. 449.)

12080.7.

No suit, action or other proceeding lawfully commenced by or against the head of any agency or other officer of the state, in his official capacity or in relation to the discharge of his official duties, shall abate by reason of the taking effect of any reorganization plan under the provisions of this article.

(Added by renumbering Section 12077 by Stats. 1968, Ch. 449.)

12080.8.

From the effective date of a reorganization plan, and as long as it is in effect, the operation of any prior act of the Legislature inconsistent therewith shall be suspended insofar as it is inconsistent with the reorganization plan.

(Added by renumbering Section 12078 by Stats. 1968, Ch. 449.)

12080.9.

Each reorganization plan which takes effect shall be printed in the same volume as the acts of the session of the Legislature to which it was submitted.

(Added by renumbering Section 12079 by Stats. 1968, Ch. 449.)

12081.

The Legislative Counsel shall prepare for introduction not later than the next regular session of the Legislature occurring more than 90 days after that in which a Governor’s reorganization plan takes effect a bill effecting such changes in the statutes as may be necessary to reflect the changes made by the reorganization plan.

The purpose of this section is to insure that statutory law is amended to conform with the changes made by the reorganization plan, but failure to enact such a bill shall not affect the validity of the plan.

(Added by renumbering Section 12080 by Stats. 1968, Ch. 449.)

12081.1.

It is the intention of the Legislature in delegating legislative power to the Governor by this article pursuant to the authorization contained in Section 6 of Article V of the California Constitution to retain the right of review of the Governor's action by means of action by either house of the Legislature recommending study of any proposal submitted to it.

(Added by renumbering Section 12081 by Stats. 1968, Ch. 449.)

12081.2.

If any provision of this act or the application thereof, except Section 12080.5, to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act, except Section 12080.5, are severable.

(Amended by Stats. 1974, Ch. 1242.)

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