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Action

Public Hearing

**Proposed Amendments to 5 California Code of Regulations §80027
Pertaining to General Education Limited Assignment Multiple or
Single Subject Teaching Permit and Proposed Addition of §80027.1
Pertaining to Special Education Limited Assignment Teaching
Permit and §80048.7 Pertaining to Added Authorizations in Special
Education**

AGENDA INSERT

Executive Summary: Proposed amendments and additions to 5 California Code of Regulations, sections 80027, 80027.1, and 80048.7 are presented for public hearing.

Recommended Action: Staff recommends that the Commission adopt the proposed amendments and additions to 5 California Code of Regulations, sections 80027, 80027.1, and 80048.7.

Presenter: Terri H. Fesperman, Consultant, Certification, Assignment and Waivers Division

Strategic Plan Goal: 1

Promote educational excellence through the preparation and certification of professional educators

- ◆ Grant credentials, certificates and permits as set out in regulation and statute

April 2009

**Proposed Amendments to California Code of Regulations
§80027 Pertaining to General Education Limited
Assignment Multiple or Single Subject Teaching Permit
and Proposed Addition of §80027.1 Pertaining to Special
Education Limited Assignment Teaching Permit and
§80048.7 Pertaining to Added Authorizations in Special
Education**

Updated Tally of Responses

April 21, 2009

Support

0 organizational opinions
3 personal opinions

Opposition

2 organizational opinion
0 personal opinion

Total Additional Responses: 5

Support

8 organizational opinions
7 personal opinions

Opposition

2 organizational opinion
0 personal opinion

Grand Total Responses: 17

Additional Responses Representing Individuals in Support

1. Victoria Graf, Loyola Marymount University, Special Education Director
2. Marianne Mitchell, Loyola Marymount University, Special Education Assistant Director
3. Jenny Teresi, San Bernardino County Office of Education, Credential Services Senior Manager

Additional Responses Representing Organization in Opposition

1. Department of Finance, Nicolas Schweizer

Comment: We have had a concern that the regulatory changes for Limited Assignment Teaching Permits to be considered by the Commission this week would create a reimbursable state mandate and would result in costs to the State. After discussions with Commission staff and review of the applicable state statutes, our concern remains. Below is our analysis of the issue and attached are the changes which would need to be made to address our concern.

We have reviewed the proposed amendments to California Code of Regulations §80027, and additions of §§80027.1 and 80048.7, pertaining to Limited Assignment Teaching Permits (LAP). As expressed previously to Teri Fesperman, we have concerns that several sections of the proposed language would create state mandated reimbursable activities. Ms. Fesperman provided sections of California Education Code (EC) to support CTC's position that the CCR amendments do not create new activities for local educational agencies (LEAs) or shift responsibility for activities from an individual to an LEA.

However, these sections of EC state what the commission may do when a district requests an emergency permit, what a district must provide as justification for their request, and that a district may request a teacher misassignment. While these sections of EC are silent on who is required to submit to the CTC the educator's application for the authorization, the original CCR language to be amended pertaining to the General Education LAP states, "The applicant submits a completed Application for Credential Authorizing Public School Service (form 41-4, rev. 8/00), and the fee(s) as specified in Section 80487."

The Commission's proposed amendments shift the application submission responsibility from the educator to the employing agency/LEA without clarifying that the entire process is voluntary on the part of the employing agency/LEA. Therefore, as drafted, we believe the proposed regulatory changes would likely create a state mandated reimbursable activity. Additionally, the proposed sections of CCR for the Special Education LAP mirror the amended sections of the General Education language and, similarly, would likely create a reimbursable state mandate.

Our suggested changes were made with Microsoft Word's track changes tool. Our additions are underlined in either blue or red text; Deletions are double-struck in blue.

We respectfully request the changes specified in the attached document be made to the Commission's proposed regulatory changes to address our concerns of increased state costs and to permit us to approve your Form 399.

Response: After review of the proposed language to the amendments and additions to California Code of Regulations §§80027 and 80027.1, the Commission agrees that the revised language makes it clearer that the limited assignment process is not a state mandate. Revised sections 80027 and 80027.1, below, reflect the changes.

2. Disability Rights California, Lauren B. Giardina, Staff Attorney

Comment:

Disability Rights California is a Governor-designated private, nonprofit agency that protects and advocates for the rights of Californians with disabilities, including children with “exceptional needs” as that term is used in the California Education Code. See, Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15000 *et seq.*; the Rehabilitation Act, 29 U.S.C. §§ 794e *et seq.*; Protection and Advocacy for Individuals with Mental Illness Act, 42 U.S.C. §§ 10801 *et seq.*; Cal. Educ. Code §56026.

Disability Rights California submits the following comments in response to the March 6, 2009 Notice of Proposed Rulemaking:¹

These regulations, if adopted, will provide requirements for a new special education limited assignment permit, and will allow added authorizations to special education credentials.

With regard to proposed addition 5 CCR §80027.1(a) and (b)(4), we recommend that the declaration of need include language that specifically indicates the efforts that have been made by the district to locate and appropriately qualified teacher. We further recommend that there is a minimum threshold that specifies the steps that should be taken.

We agree with sections 80027.1(a)(2) and (b)(1) requiring a level of familiarity with the school, but we recommend that “familiarity” be further defined. Some possibilities are that the applicant has resided or worked within the district for a specific period of time.

We recommend that in section 80027.1(a)(4), “experienced educator” is more specifically defined.

We agree that there should be consent to teach outside of the credentialed area, per 80027.1(a)(5), however we feel that the consent requirement is subjective. We recommend implementing a clear criteria by which consent will be granted.

We also recommend that when discussing the renewal of the permit, that there be a section indicating that the permits can only be renewed on a year by year basis for a specific amount of years to prevent potential abuse of the renewal process.

With regards to proposed section 80048, we agree that the added rules are logical and do not have commentary.

Thank you for the opportunity to review and comment on these proposed regulations. I am available at the address above or Lauren.giardina@disabilityrightsca.org you have any questions about the content of this letter or intent of Disability Rights California’s comments.

¹ Title 5, California Code of Regulations, Div. 1, Chp. 3, Subchptr. 1, Art.

Response: There were five areas of concern in the letter.

1) Declaration of Need should include specific language indicating the efforts to recruit an appropriately qualified teacher

Limited Assignment Permits are available only to fully credentialed teachers to teach for no more than three years outside the authorization of their credential while earning an additional authorization. EC §44225.7(a) was recently amended regarding the hiring priority for employing agencies when a suitable, fully prepared teacher is unavailable

and the employing agency opts to apply for a Teaching Permit, Emergency Permit, or Variable Term Waiver. Most individuals applying for these documents have not completed a teacher preparation program including student teaching and do not hold a credential. Therefore the recruitment requirements are more specific to request additional information. The Declaration of Need currently includes information on the recruitment of appropriately credentialed teachers as outlined below. The Commission does not believe additional recruitment information is needed for limited assignment permits.

The Declaration of Need (DON) is the annual form submitted to the Commission by county offices of education, school districts, state-wide agencies or non-public schools or agencies that contains the employing agency's estimated number of Teaching, Emergency and Limited Assignment Permits that will be requested during the school year. School districts must certify their efforts to certify, assign, and develop fully qualified personnel. The DON must be presented to and approved by the district governing board at a regularly scheduled public meeting. The County Superintendent of Schools, Director of a state agency, or a Non-Public School or Agency must make a public announcement adopting a DON at least 72 hours prior to the adoption.

Once the DON has been approved, it must be signed by Superintendent, Director, or designee, as appropriate. The DON board agenda item, along with the supporting material that was presented to the board, must be sent to the Commission.

2) Additional requirements be included beyond current employment.

When there are classes in which a teacher is needed, employing agencies have several options to use including the use of Local Teaching Assignment Options or a Limited Assignment Permit. Limited Assignment Permits are available only to fully credentialed teachers. Requiring current employment allows the employing agency to choose an individual known to the school, the staff and the students to teach outside the authorization of their credential that wishes to complete the requirements to earn an additional authorization. Since the Limited Assignment Permit is an option, the Commission believes that local employing agencies should be allowed to set their own additional criteria for employment.

3) Experienced educator be specifically defined

The Commission has amended the qualifications for 'experienced educators' in section 80027 and added them to section 80027.1. The Commission believes the additional qualifications of aligning the type of credential required of the educator and the years of experience in the specific area of the limited assignment permit are sufficient for the permit.

4) Clear criteria for consent of the teacher

An individual must consent to an assignment outside the area of authorization of their credential including Local Assignment Options and Limited Assignment Permits. The Commission believes the criteria for this consent is a local level employment criteria.

5) Renewal requirements should indicate the permit can only be renewed year by year

Section 80027.1(b)(5) states that the permit may be renewed twice. Section 80027.1(d) includes the validity period of the permit which is only for one year.

Proposed new text is double underlined and proposed deleted text is ~~double strikethrough~~.

Title 5 Section 80027 Pertaining to the General Education Limited Assignment Multiple or Single Subject Teaching Permits

§80027. General Education Limited Assignment Multiple or Single Subject Teaching Permits.

(a) Requirements for the initial issuance of a General Education Limited Assignment Multiple or Single Subject Teaching Permits includes all of the following:

- (1) ~~The~~ If an employing agency elects to request a General Education Limited Assignment Teaching Permit, the employing agency must submit a Declaration of Need for Fully Qualified Educators that satisfies the provisions of Section 80026.
- (2) Applicant is currently employed by the local governing board requesting such assignment.
- (3) Applicant holds a valid California general education teaching credential based on a baccalaureate degree and a professional teacher preparation program, including student teaching or the equivalent.
- (4) If an employing agency elects to assign an Applicants applicant who have has not obtained permanent status as defined in Education Code 44929.21 or 44929.22 or 44929.23, shall be assigned an experienced educator by the employing agency shall assign an experienced educator in the subject area of the General Education Limited Assignment Multiple or Single Subject Teaching Permit who has completed 3 years of full-time general education elementary or secondary classroom teaching experience in ~~that~~ the subject area(s) requested. If more than one subject area is requested, the experienced educator(s) must have a minimum of three years of teaching experience in each area requested. The local employing agency may assign more than one experienced educator to the permit holder to meet this requirement.
- (5) The General Education Limited Assignment Single Subject Teaching Permit may be issued in the subject areas listed in Education Code Section 44257 and the General Education Limited Assignment Multiple Subject Teaching Permit may be issued in the subject area of General Subjects.
- (6) ~~The~~ If an employing agency elects to request a General Education Limited Assignment Teaching Permit, the employing agency must keep on file a written statement verifying consent of the teacher to serve on the General Education Limited Assignment Multiple or Single Subject Teaching Permit.
- (7) For initial issuance of a General Education Limited Assignment Multiple or Single Subject Permit, ~~The applicant submits~~ the employing agency may assist the applicant in submitting the following shall be submitted to the Commission by the employing agency;

(A) a completed Application for Credential Authorizing Public School Service (form 41-4, rev. ~~8/00~~ 9/08) available on the Commission's website and hereby incorporated by reference, together with its related Instruction and Information Sheet (rev. 9/08) and Form 41-ECC (Explanation of Criminal Conviction or Pending Criminal Charge) (rev. 7/08), and

(B) the The fee(s) as specified in Section 80487(a)(1).

(b) Requirements for the renewal of a General Education Limited Assignment Multiple or Single Subject Teaching Permits if an employing agency elects to request the renewal of the permit.

(1) Applicant is currently employed by the local governing board requesting such assignment.

(2) Applicant holds a valid California general education teaching credential based on a baccalaureate degree and a professional teacher preparation program, including student teaching or the equivalent.

(3) ~~An application for~~ For the renewal of a General Education Limited Assignment Multiple or Single Subject Teaching Permit, the employing agency may assist the applicant in submitting the following ~~shall be submitted to the Commission by the employing agency, and shall include all of the following.~~

(A) A completed Application for Credential Authorizing Public School Service (form 41-4, rev. ~~8/00~~ 9/08) available on the Commission's website and hereby incorporated by reference, together with its related Instruction and Information Sheet (rev. 9/08) and Form 41-ECC (Explanation of Criminal Conviction or Pending Criminal Charge) (rev. 7/08).

(B) Payment of the The fee(s) ~~required by~~ as specified in Section 80487(a)(1).

(C) Verification of the completion of one of the following:

(i) at At least six semester units, or the equivalent quarter units, of course work required for issuance of the related credential or

(ii) Take all sections of the examination appropriate to the type of permit requested, multiple or single subject, as provided in Education Code sections 44280, 44281 and 44282 and pass two sections. If one or more sections have been previously passed, the individual must pass the one or two sections of the examination, as appropriate.

~~(4) The~~ If an employing agency elects to request a General Education Limited Assignment Teaching Permit, the employing agency must submit a Declaration of Need for Fully Qualified Educators that satisfies the provisions of Section 80026.

~~(5) Validation of Professional Development Statement. The holder of a Limited Assignment Multiple or Single Subject Teaching Permit who has previously taught three or more years on a credential other than an emergency credential or permit, may submit the following in lieu of the required 6 semester units:~~

~~(A) Verification that he or she has completed ninety hours of professional development activities that are directly related to the subject or class authorized by the Limited Assignment Multiple or Single Subject Teaching Permit; and~~

~~(B) Submission of a Validation of Professional Development Statement, signed by the employing agency and the permit holder, that includes a brief description of the content of the teacher's professional development program, a brief description of the means by which the employing agency validated the quality and appropriateness of the teacher's professional development program, and a brief description of the manner in which the results of the teacher's professional development program were evaluated.~~

~~(6)~~ An individual may renew a General Education Limited Assignment Multiple or Single Subject Teaching Permit in any one specific subject only twice during his or her lifetime.

~~(7)~~ ~~(6)~~ ~~The~~ If an employing agency elects to request a General Education Limited Assignment Teaching Permit, the employing agency must keep on file a written statement verifying consent of the teacher to serve on the General Education Limited Assignment Multiple or Single Subject Teaching Permit.

(c) Authorization:

(1) A General Education Limited Assignment Multiple Subject Teaching Permit authorizes the same service as a Multiple Subject Teaching Credential in the authorized field listed on the permit.

(2) A General Education Limited Assignment Single Subject Teaching Permit authorizes the same service as a Single Subject Teaching Credential in the authorized field(s) listed on the permit.

(d) The General Education Limited Assignment Multiple or Single Subject Teaching Permit ~~shall be is~~ valid for ~~no less than one year and expires~~ one calendar year from the first day of the month immediately following the date of issuance but is limited to the expiration date of the prerequisite teaching credential held.

(1) A permit issued for less than one calendar year may be extended for the remainder of the calendar year as long as the prerequisite teaching credential has been renewed. An application and fee as found in (b)(3)(A) and (B) must be submitted. Verification of requirements as found in (b)(3)(C) are not required to extend the permit for the remainder of the calendar year.

Note: Authority cited: Sections 44225(d), (g) and (q) and 44300, Education Code. Reference: Sections ~~44253~~, 44280, 44281, 44282, and 44300, Education Code.

Title 5 Section 80027.1 Pertaining to the Special Education Limited Assignment Teaching Permit

§80027.1. Special Education Limited Assignment Teaching Permit.

(a) Requirements for the initial issuance of a Special Education Limited Assignment Teaching Permit include all of the following if an employing agency elects to request the permit:

(1) ~~The~~ If an employing agency elects to request a General Education Limited Assignment Teaching Permit, the employing agency must submit a Declaration of Need for Fully Qualified Educators that satisfies the provisions of Section 80026.

(2) Applicant is currently employed by the local governing board requesting such assignment.

(3) Applicant holds a valid California special education teaching credential based on a baccalaureate degree and a professional preparation program, including student teaching or the equivalent or a services credential with a special class authorization listed in sections 80047 through 80047.9.

(4) If an employing agency elects to assign an ~~Applicants~~ applicant who ~~have~~ has not obtained permanent status as defined in Education Code 44929.21 or 44929.22 or 44929.23, ~~shall be assigned an experienced educator by the employing agency~~ shall assign an experienced educator in the subject area of the Special Education Limited Assignment Teaching Permit who has completed three years of full-time special education teaching experience in the special education specialty area(s) requested. If more than one specialty area is requested for the permit, the experienced educator(s) must have a minimum of three years of teaching experience in each area requested. The local employing agency may assign more than one experienced educator to the permit holder to meet this requirement.

(5) The Special Education Limited Assignment Teaching Permit may be issued in the special education specialty area aligned with the preliminary and clear Education Specialist Instruction Credentials.

(6) ~~The~~ If an employing agency elects to request a General Education Limited Assignment Teaching Permit, the employing agency must keep on file a written statement verifying consent of the teacher to serve on the Special Education Limited Assignment Teaching Permit.

(7) For initial issuance of a Special Education Limited Assignment Teaching Permit, the employing agency may assist the applicant in submitting the following ~~shall be submitted to the Commission by the employing agency~~:

(A) A completed Application for Credential Authorizing Public School Service (form 41-4, rev. 9/08) available on the Commission's website and hereby incorporated by reference, together with its related Instruction and Information Sheet (rev. 9/08) and Form 41-ECC (Explanation of Criminal Conviction or Pending Criminal Charge) (rev. 7/08).

(B) The fee as specified in Section 80487(a)(1).

(C) One of the following:

- (i) Three semester, or the equivalent quarter, units of course work in each special education specialty area requested, or
 - (ii) One year of successful full-time classroom experience, or the equivalent in part-time experience, working with special education students in each of the special education specialty area requested and has received a favorable evaluation or recommendation by the local employing agency.
- (b) Requirements for the renewal of a Special Education Limited Assignment Teaching Permit.
- (1) Applicant is currently employed by the local governing board requesting such assignment.
 - (2) Applicant holds a valid California special education teaching credential based on a baccalaureate degree and a professional preparation program, including student teaching or the equivalent or a services credentials with a special class authorization listed in sections 80047 through 80047.9.
 - (3) For renewal of a Special Education Limited Assignment Teaching Permit, the employing agency may assist the applicant in submitting the following ~~shall be submitted~~ to the Commission ~~by the employing agency~~:
 - (A) A completed Application for Credential Authorizing Public School Service (form 41-4, rev. 9/08) available on the Commission's website and hereby incorporated by reference, together with its related Instruction and Information Sheet (rev. 9/08) and Form 41-ECC (Explanation of Criminal Conviction or Pending Criminal Charge) (rev. 7/08).
 - (B) The fee as specified in Section 80487(a)(1).
 - (C) Verification of the completion of at least six semester units, or the equivalent quarter units, of course work required for issuance of the related credential.
 - (4) The employing agency must submit a Declaration of Need for Fully Qualified Educators that satisfies the provisions of Section 80026.
 - (5) An individual may renew a Special Education Limited Assignment Teaching Permit in any one special education specialty area only twice during his or her lifetime.
 - (6) The employing agency must keep on file a written statement verifying consent of the teacher to serve on the Special Education Limited Assignment Teaching Permit.
- (c) Authorization:
- (1) A Special Education Limited Assignment Teaching Permit authorizes the same service as an Education Specialist Teaching Instruction Credential.
- (d) The Special Education Limited Assignment Teaching Permit shall be valid for one calendar year and expires one calendar year from the first day of the month immediately following the date of issuance but is limited to the expiration date of the prerequisite credential held.

(1) A permit issued for less than one calendar year may be extended for the remainder of the calendar year as long as the prerequisite credential has been renewed. An application and fee as found in (b)(3)(A) and (B) must be submitted. Verification of requirements as found in (b)(3)(C) are not required to extend the permit for the remainder of the calendar year.

Note: Authority cited: Sections 44225(d), (g) and (q) and 44300, Education Code. Reference: Sections 44225(b) and (e) and 44300, Education Code.