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Information

Credentials and Certificated Assignments Committee

Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Fingerprint Submissions

Executive Summary: This agenda item provides proposed amendments to Title 5 of the California Code of Regulations pertaining to fingerprint submissions as recommended by the Bureau of State Audits.

Recommended Action: For information only

Presenter: Tammy A. Duggan, Assistant 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

August 2011

Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Fingerprint Submissions

Introduction

The proposed amendments to Title 5 of the California Code of Regulations are to update the language pertaining to the submission of fingerprint information and to establish parameters for the situations in which an individual must resubmit fingerprint information.

Background

The Joint Legislative Audit Committee requested that the Bureau of State Audits within the California State Auditor's office conduct an audit of the Commission's educator discipline process. The audit report, completed in April 2011, included a recommendation that the Commission notify the Department of Justice (DOJ) when it no longer needs reports of arrest and prosecution (RAP) sheets on an individual for crimes perpetrated in California. The audit report determined that Commission staff spent between one week and five weeks of staff time each year needlessly reviewing unnecessary RAP sheets. The proposed amendments are designed to reduce the number of RAP sheets reviewed by Commission staff each year for individuals who are no longer employed in California's public schools or who do not hold valid documents.

Penal Code §11105.2(d) states, among other conditions, that agencies receiving subsequent arrest information for applicants shall immediately notify the DOJ when the employment of an applicant is terminated. Such action will allow the DOJ to discontinue the notification of subsequent arrest reports process for the affected individuals. Since a credential, certificate, permit, or waiver issued by the Commission is required for employment of certificated individuals in California's public schools, the assumption may be made that an individual who has not held a valid document issued by the Commission for more than one year is no longer employed in the public schools. The proposed regulations will require individuals to resubmit fingerprint information if they have not held a valid document for more than one year.

The Commission issues two certificates for the sole purpose of indicating that an individual's fingerprint information is on file at the Commission and that the holder is professionally fit for service in California's public schools: 1) the Certificate of Clearance (COC) allows an individual to serve in the public schools while completing a Commission-approved program; and 2) the Activity Supervisor Clearance Certificate (ASCC) allows an individual to assume a paid or volunteer position to work with pupils in a pupil activity program offered by a school district. These certificates are valid for five years. The proposed amendments add language requiring the resubmission of fingerprint information when these certificates expire.

The Commission also routinely receives fingerprint information from individuals prior to the submission of an application for a credential, certificate, permit, or waiver. The proposed amendments add language stating that the fingerprint information for these individuals will be

valid for one year. If an application for a credential, certificate, permit, or waiver is not received within one year from the date the DOJ provides the Commission with the fingerprint information, the individual will be required to resubmit fingerprint information with his/her next application. This will allow the Commission to notify the DOJ that subsequent RAP sheets are not required for individuals who submit their fingerprint information more than one year prior to submitting an application for a credential, certificate, permit, or waiver.

The Federal Bureau of Investigation (FBI) does not provide subsequent RAP sheets to the Commission; arrest information from the FBI is only provided at the time an individual's fingerprints are submitted through the DOJ for clearance. Requiring individuals to resubmit fingerprint information when their COCs or ASCCs expire or when they have not held a valid document in California for more than one year will allow the Commission to receive updated arrest information from other states. This is especially important because individuals with expired documents may have resided outside California during the hiatus in their certification.

Proposed Amendments to Regulations

§80028

Note: Updates the subdivision referenced for EC §44320 from (b) to (d). Amendments to Education Code (EC) §44350 as a result of Senate Bill (SB) 1422 (Chap. 1245, Stats. 1992) moved the subdivision that includes the Certificate of Clearance requirement from (b) to (d). Adds Education Code §44350 as a Reference. EC §44350 states that all Commission documents must be issued with expiration dates.

§80301

Title: Deletes "Application for" from the title of this section. A separate form was previously required with applications that included fingerprint information. However, the separate form was discontinued several years ago when the character and identification clearance information was added to the Application for Credential Authorizing Public School Service form.

(b): Updates the name of the application form required for all types of documents issued by the Commission along with reference to the Title 5 section that defines the application form. Also adds the Activity Supervisor Clearance Certificate to the list of available documents.

(c): Updates that name of the application form required for all types of documents issued by the Commission along with reference to the Title 5 section that defines the application form.

Note: Adds EC §49024 pertaining to the Activity Supervisor Clearance Certificate as a Reference.

§80442

Title: Changes the title from "Personal Identification Cards" to the more generic term of "Fingerprints." Penal Code §11077.1 as amended by SB 970 (Chap. 470, Stats. 2003) requires submission of fingerprints via livescan unless a livescan station is not available. This Title 5 section requires submission of fingerprint information via livescan and allows for the submission of fingerprint cards only if an individual resides outside California.

(a): Clarifies that the requirement in EC §44340 to include fingerprints when filing an application is met with the submission of fingerprints via livescan (electronic process) as required by the DOJ. Penal Code §11077.1 as amended by Senate Bill 970 (Chap. 470, Stats. 2003) requires submission of fingerprints via livescan unless a livescan station is not available. Adds language allowing the submission of fingerprint cards by individuals applying for certification while residing in another state.

(c): Amends the language pertaining to the subsequent filing of “cards” to “fingerprints.” Subdivision (a) defines who must submit livescan and who are allowed to submit fingerprint cards; therefore, the generic term of “fingerprints” is more appropriate in this subdivision. Also adds a prefacing statement for the list of situations in which fingerprints must be submitted by an applicant who previously held a document issued by the Commission.

(c)(1): Adds a new subdivision to require the submission of fingerprints by applicants who have not held a valid document issued by the Commission for more than one year. The Commission continues to receive subsequent arrest information for individuals who do not hold valid credentials, certificates, permits, or waivers which unduly increases the workload of the Commission’s Division of Professional Practices. The proposed language will allow the Commission to notify the DOJ that it is no longer interested in receiving subsequent arrest information for individuals who have allowed their California certification to lapse for one or more years.

(c)(2): Adds a new subdivision to require the submission of fingerprints by applicants with expired COCs and ASCCs. COCs and ASCCs are documents issued by the Commission that are valid for five years and verify that an individual’s fingerprint clearance is on file. The COC allows an individual to serve in California’s public schools while completing a Commission-approved teacher preparation program and the ASCC allows an individual to work with pupils in a pupil activity program (i.e. scholastic program, interscholastic programs, and extracurricular activities) sponsored by a school district or school booster club. The Commission continues to receive subsequent arrest information for these individuals when their certificates expire which unduly increases the workload of the Commission’s Division of Professional Practices. The proposed language will allow the Commission to notify the DOJ that it is no longer interested in receiving subsequent arrest information for individuals with expired COCs and ASCCs.

(d): The Commission often receives fingerprint information from the DOJ for individuals who submitted their fingerprints via livescan (electronically) but who do not subsequently submit an application for any type of credential, permit, certificate, or waiver. The Commission continues to receive subsequent arrest information for these individuals which unduly increases the workload of the Division of Professional Practices. The proposed language will allow the Commission to notify the DOJ that it is no longer interested in receiving subsequent arrest information for individuals who submit their fingerprint electronically but who do not apply for a credential, permit, certificate, or waiver within one year from the date the fingerprint information is received from the DOJ.

Next Steps

The regulations will return at a future meeting as an action item to set a public hearing date.

CALIFORNIA CODE OF REGULATIONS TITLE 5. EDUCATION DIVISION 8. COMMISSION ON TEACHER CREDENTIALING

§ 80028. Certificate of Clearance.

A Certificate of Clearance is a document, issued by the Commission, which verifies that the holder meets personal qualifications necessary to obtain a regular California teaching or services credential. Each candidate for an initial credential shall, prior to admission to student teaching under any professional preparation program approved by the Commission, obtain a Certificate of Clearance. No less than 60 working days prior to admission to student teaching, the candidate shall submit the following materials to the Commission:

- (a) A completed application via the online application system.
- (b) One-half of the credential issuance/reissuance or renewal fee specified in Section 80487(a)(1) unless otherwise established by law. The fee shall apply toward the initial credential.
- (c) Verification of completion of livescan.

The Certificate of Clearance shall be issued for a period of five years when the Commission has verified that the candidate meets personal qualifications necessary to obtain a regular California teaching or services credential.

Note: Authority cited: Section 44225(b), Education Code. Reference: Section 44320(~~b~~d) and 44350, Education Code.

§ 80301. Notice to Applicants for Issuance or Renewal of Credentials; ~~Application for Character and Identification Clearance.~~

- (a) An applicant for issuance or renewal of a credential shall not be required to disclose, and the Committee of Credentials shall not inquire into or consider, any acts or omissions not related to his or her fitness or competence to perform the duties authorized by his or her credential.
- (b) Each applicant for initial issuance of a credential shall submit a completed Application for ~~Character and Identification Clearance on~~ Credential Authorizing Public School Service form adopted by the Commission as specified in §80001 on which he or she will set forth evidence of identification and good moral character which shall be used for the sole purpose of determining the applicant's eligibility for a credential, ~~or Certificate of Clearance, or Activity Supervisor Clearance Certificate.~~
- (c) The Application for ~~Character and Identification Clearance~~ Credential Authorizing Public School Service shall include, but not be limited to, the following information for applicants:

- (1) that the Commission is prohibited from issuing to or renewing the credential of any person convicted of any sex offense listed under Education Code Section 44010; or any narcotics offense listed under Education Code Section 44011; or who has been determined to be a mentally disordered sex offender; or that if a person holds a credential and has been convicted of any offense listed in Education Code Section 44424, such credential must be revoked.

Note: Authority cited: Section 44225(q), Education Code. Reference: Sections 44339, 44346, ~~and 44425, and 49024~~, Education Code.

§ 80442. ~~Personal Identification Cards~~ Fingerprints.

- (a) Except as provided in subsection (c), each applicant for a credential shall submit with the application verification of livescan. Individuals who reside outside California may submit duplicate personal identification cards provided by the Commission or obtained from the Bureau of Identification of the Department of Justice. Such identification cards shall be completed in the manner required by the instructions on the card.
- (b) The fingerprints of the applicant shall be taken by a qualified officer or employee of the state, or of any political subdivision thereof, or by a person designated by the Commission.
- (c) Where an applicant is seeking an additional credential and has filed personal identification cards in connection with a previous credential, or renewal thereof, said applicant need not ~~file~~ subsequently submit fingerprints cards except upon express request by the Commission or in any of the following situations:-
 - (1) has not held a valid credential, certificate, permit, or other document issued by the Commission for more than one year; or
 - (2) five years have elapsed since the issuance date of a Certificate of Clearance as specified in §80028 or an Activity Supervisor Clearance Certificate specified in Education Code §49024 and the individual does not hold any other type of valid document issued by the Commission.
- (d) Fingerprints submitted to the Commission electronically via livescan prior to the filing of an application form by the individual will be valid for one year. If an application form is subsequently filed, the individual will be required to electronically submit new fingerprints via livescan.

Note: Authority cited: Section 44225, Education Code. Reference: Section 44340, Education Code.