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Information

Certification Committee

Certification and Assignment Issues Surrounding Statutory Teacher Leaves

Executive Summary: This agenda item addresses certification and assignment issues impacting students whose teacher is out on an extended statutory leave along with potential solutions for Commission consideration.

Policy Question: Does the Commission feel that the certification and assignment issues created by statutory teacher leaves are significant enough to warrant further exploration?

Recommended Action: For information only

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Strategic Plan Goal

I. Educator Quality

- c) Ensure that credential processing and assignment monitoring activities accurately, effectively, and efficiently identify educators who have met high and rigorous certification standards and who are appropriately assigned.

Certification and Assignment Issues Surrounding Statutory Teacher Leaves

Introduction

This agenda item addresses certification and assignment issues impacting students whose teacher is out on an extended statutory leave. This item also examines potential solutions to these issues, identified as a result of informal broad stakeholder discussions organized by California County Superintendents Educational Services Association (CCSESA) and Special Education Administrators of County Offices (SEACO) followed by a Commission concept paper and survey.

Background

California public school employers face substantial challenges when it comes to balancing the needs of students with the legal obligations for teacher leaves set forth through Federal and State labor laws. During the Audience Presentation portion of the June 2014 Commission meeting, members of the California County Superintendents Educational Services Association (CCSESA) presented this issue for Commission consideration. Since then, Commission staff has engaged in a series of conversations with representatives from stakeholder groups, including but not limited to the Association of California School Administrators, California County Superintendents Educational Services Association, California Department of Education, California Federation of Teachers, California School Boards Association, California Teachers Association, Public Advocates, Special Education Administrators of County Offices, and State Special Education Local Plan Areas. These stakeholder groups discussed a variety of potential solutions, including the development of a new permit to provide a targeted solution to resolve some of the issues that impact students in relation to statutory teacher leaves.

Issues Surrounding Teacher Leaves

Current restrictions limit an Emergency 30-Day Substitute Teaching Permit holder's service to no more than 30 cumulative days for any one teacher of record during the school year (California Code of Regulations, Title 5 §80025), except in special education classrooms, where a substitute may serve no more than 20 cumulative days during a school year for any one teacher (Education Code §56061(a)). Teacher leaves, as described in detail below, have increased steadily over the past decades, yet the options for employers to cover said leaves have not changed since the inception of the Emergency 30-Day Substitute Teaching Permit in 1981.

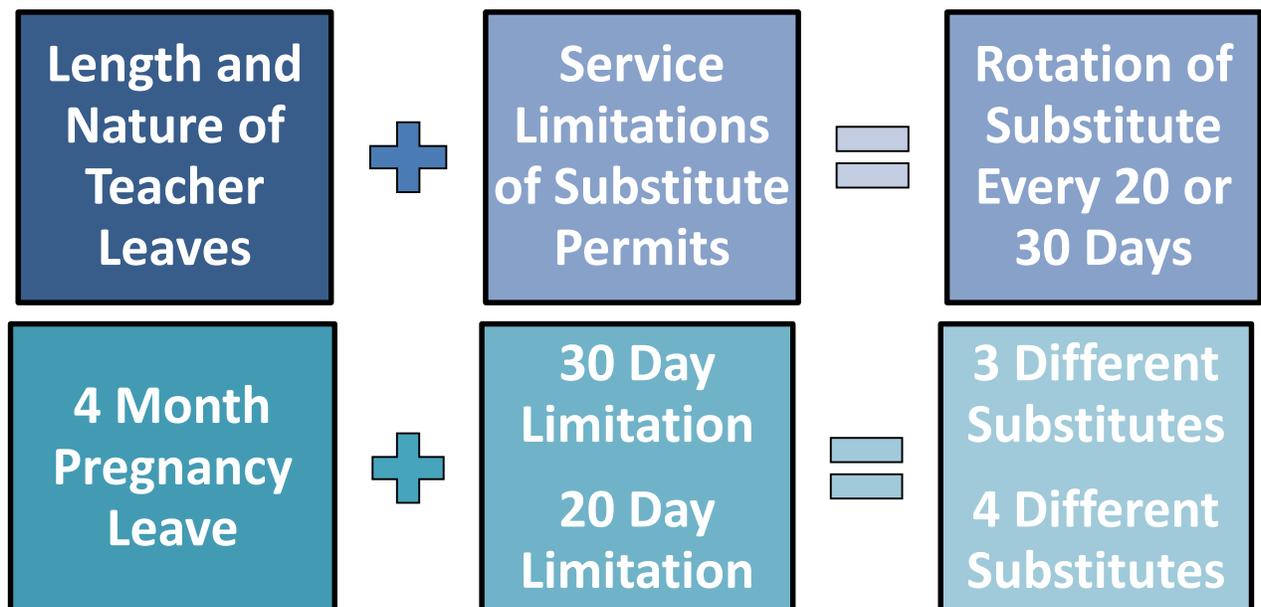
California public school employers must comply with the Federal and State employee leaves outlined in Table 1. In some cases, such statutory leaves may be taken concurrently or may be taken consecutively. Most statutory teacher leaves extend beyond the 20 or 30 day service limitation set forth in statute and regulations. This limitation often results in the use of a rotation

of substitute teachers to cover the assignment of a teacher out on an extended statutory leave, resulting in an inconsistent and inadequate learning environment.

Table 1

Type of Leave	Timeframe	Statutory Reference
Sick Leave	As accumulated by teacher	EC §44978
Differential Sick Leave	5 months	EC §44977
Pregnancy Disability Leave Act	4 months	GC §12945
Family and Medical Leave	12 workweeks	GC §12945.2 and 29 U.S.C. §2601, et seq.
California Family Rights Act	12 workweeks	GC §12945.2
Industrial Accident and Illness Leave	60 days	EC §44984

In a situation when a teacher is out on one of these statutory leaves for the maximum length, the unfilled position may require a rotation of several substitute teachers. For example, if a teacher of record for a classroom goes out on the maximum leave under the Pregnancy Disability Leave Act they will be out of their general education classroom for four months. During this time, three different Emergency 30-Day Substitute Teaching Permit holders would need to be assigned to cover this classroom due to the 30 day service limitation. If this were a special education classroom, the 20 day limitation would require four different substitutes during that four month period (e.g., 20 instruction days per month). Further, such leaves can and often are taken consecutively, with teachers using personal sick leave or Family Medical Leave in conjunction with other statutory leaves.



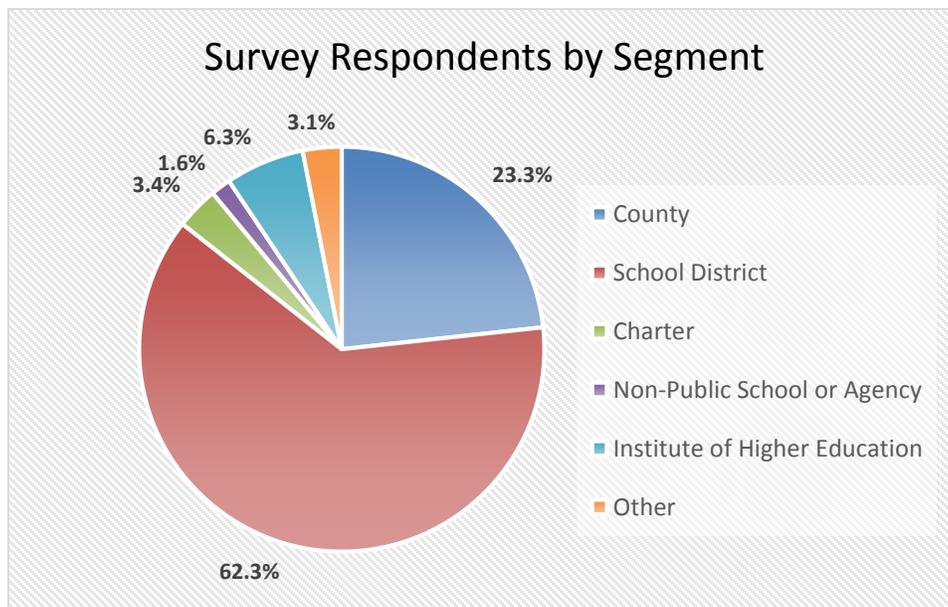
Stakeholder Feedback

In October, 2015, Commission staff released a concept paper (see appendix A) that summarized the consensus of the informal stakeholder groups. The purpose of the concept paper was to present the issues surrounding teacher statutory leave absences and to introduce the group’s potential solution to the issues in order to gauge perceptions of a broader stakeholder audience.

To determine if the issues have a genuine impact on stakeholders and if the proposed solution was appropriate, a 10 question survey was released through the Certification eNews and at the annual Credential Counselors and Analysts of California (CCAC) conference in tandem with the concept paper. [Appendix B](#) contains the complete survey, including all questions, responses, and additional comments.

A total of 773 responses to the survey were received, which represent various segments of California’s local education agencies. Nearly two-thirds of the respondents (62.4%) were from school districts, followed by another one-fourth (23.3%) from County Offices of Education. Figure 1 shows the percentage of each segment that responded to the survey. The survey results confirmed that statutory leave absences do create challenges for California local education agencies, with 82.6% of respondents stating that they experienced staffing issues related to statutory leave.

Figure 1



A substantial number (85.6%) of survey respondents found it necessary to rely on a series of rotating Emergency 30-Day Substitute Teachers to resolve staffing issues created by statutory teacher leaves (see Figure 2). Additionally, 80.9% rated the impact of such a practice on students as “substantial”. As shown in Figure 3, only 2% of individuals that answered this question rated the impact of this practice as “minimal” or “not an issue”. Most comments regarding this practice

focused on the disruption it causes to students and the quality of instruction they receive. One participant wrote that, "...We have a large number of Autistic children and they are simply not able to cope with change, so forcing our district to rotate substitutes throughout their classroom is devastating to them."

Figure 2

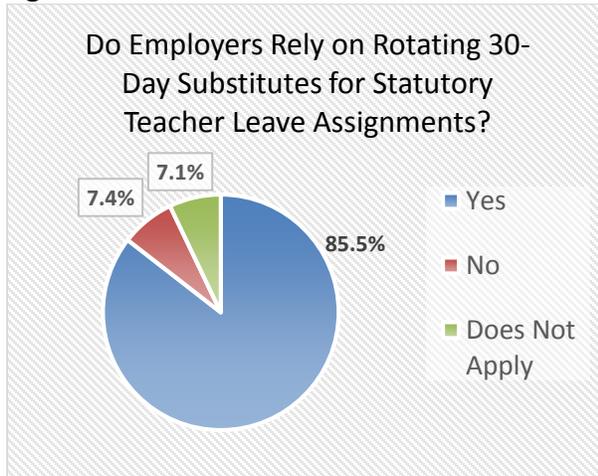
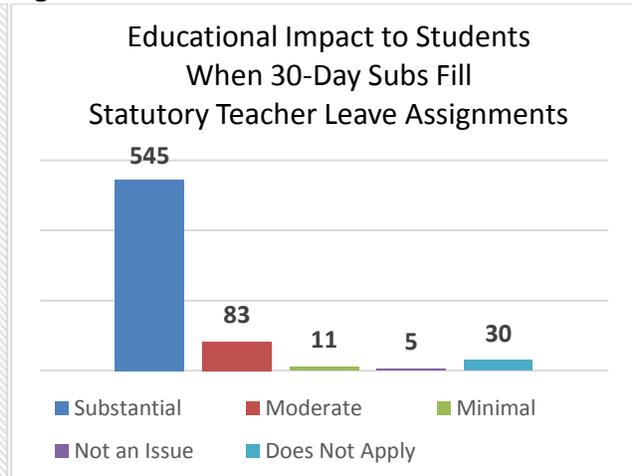


Figure 3



These survey responses provided a snapshot of how local education agencies are responding to statutory teacher leaves and their perspective on how these practices negatively impact students. In the survey comments, this impact was noted as ranging from students experiencing bonding and trust issues due to rotating substitutes through the challenges inherent in providing a consistent, safe, and stable learning environment for students.

Teacher Leave Considerations

The stakeholder groups felt that the current solutions available to appropriately cover such leaves, which can extend up to five calendar months, do not best serve California’s students. The service limitation for substitute permits correlates to the level of preparation that is required of a substitute permit holder; this permit requires a Bachelor’s or higher degree and satisfaction of the California Basic Skills Requirement for initial issuance with no restrictions or requirements for unlimited renewal. While a substitute permit holder may not be appropriately prepared to serve for more than 20 or 30 days, employers have limited options for covering longer assignments. Survey respondents were asked how to rate the level of difficulty in staffing classrooms for teachers of record out on a statutory leave. A majority of survey respondents (68.4%) stated that the difficulty in covering such leave assignments was “substantial”, with a further 19.4% stated that the difficulties were “moderate”. Only 2.7% of the respondents surveyed answered that staffing these positions “not an issue”.

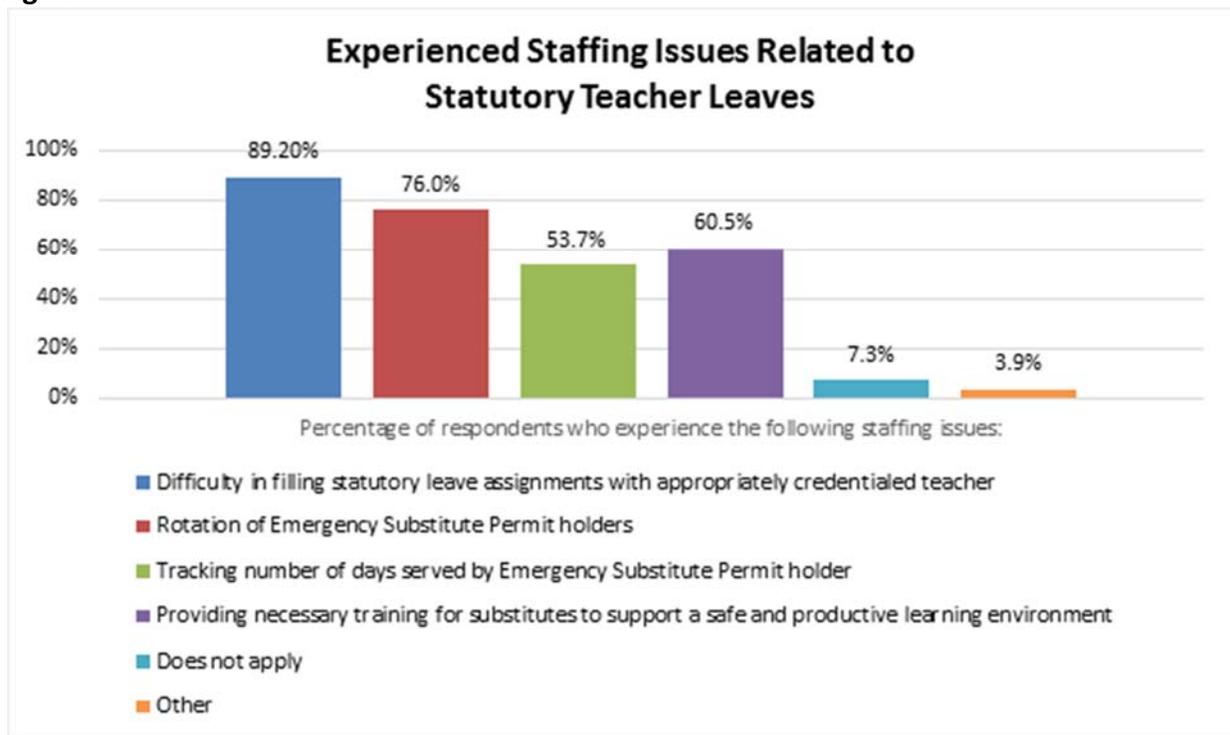
Pension reform restrictions for teachers working after retirement and the on-going shortage of educators, including substitutes, have further exacerbated the problem. Employers must consider several factors when trying to fill assignments brought on by statutory leaves:

- Statutory leave assignments require an interim teacher of record and are not considered vacancies.

- Employers cannot hire an individual to replace the teacher on leave.
- Statutory leave situations are often spontaneous in nature and may begin or end with little to no notice.
- The employing agency must allow the teacher of record to return to work as soon as they are medically able.
- Provisional Internship Permits (PIPs) or Short-Term Staff Permits (STSPs) are not intended to be used for statutory leave assignments, as a diligent search for a fully credentialed teacher is required.

To measure the impact that the above factors have on employers, the survey asked respondents to identify how often they experience issues related to filling statutory leave assignments. Figure 4 shows the frequency of specific issues that are encountered by respondents who must fill statutory leave assignments. 89.2% stated that they had experienced difficulty in filling stated leave assignments with appropriately credentialed teachers.

Figure 4



The circumstances of covering statutory leaves are further impacted by the limitations of certification options available to cover such extended assignments. As noted above, employers may rely on substitute teaching permits, or may employ individuals who hold other non-renewable teaching permits such as the Provisional Internship Permit (PIP) or Short-Term Staff Permit (STSP). However, the PIP and STSP were specifically designed to fill vacant teaching positions, not classrooms staffed by a fully credentialed teacher out on statutory leave. These permits are challenging to use for covering statutory leaves because they require employers to complete recruitment efforts prior to issuance, including conducting a diligent search for a fully

credentialed teacher. When a teacher of record suddenly takes a statutory leave, the need to fill the teacher's position is immediate and does not allow time for the employer to create job postings, advertise online, or attend job fairs in search of a fully credentialed teacher.

Policy Question: Does the Commission feel that the issues created by statutory teacher leaves are significant enough to warrant further exploration?

Some possible solutions are discussed further below, including those derived from the informal stakeholder discussions.

Possible Solutions to Statutory Teacher Leave Issues

Possible Solution 1: Teaching Permit for Statutory Leave (TPSL)

Over the past year, Commission staff has engaged in a series of conversations with representatives from stakeholder groups, including the Association of California School Administrators, California County Superintendents Educational Services Association, California Department of Education, California Federation of Teachers, California School Boards Association, California Teachers Association, Public Advocates, Special Education Administrators of County Offices, and Special Education Local Plan Areas. Through these discussions, the stakeholder groups reached broad consensus that the development of a new targeted permit could resolve some of the issues surrounding statutory teacher leaves. Education Code section 44225 provides the Commission authority to develop permits, their associated requirements, and the scope of the authorizations. A new, renewable document titled *Teaching Permit for Statutory Leave (TPSL)* could be developed to allow the holder to serve as the interim teacher of record when a contracted teacher of record is out on one of the identified statutory leaves noted within regulations.

This possible solution could remove the need for rotating through a series of substitute teachers and could instead provide a more consistent and stable learning environment for students whose teacher of record is out on statutory leave. The permit could afford employers the opportunity to invest in a pool of individuals with a higher level of preparation to serve in longer statutory leave assignments. The design of the document could require improved preparation beyond that of a substitute permit holder by increasing the individual's knowledge, skills, and abilities in the areas of pedagogy, classroom management, subject matter knowledge, and educational practices across the continuum of learning abilities.

Such a permit could authorize service as the interim teacher of record in both general education and special education classroom settings for the full length of leave for any contracted teacher on a statutory leave as defined in regulations and statute. The permit might be issued for one calendar year and would be a restricted document that could only be issued at the request of the employing agency.

Possible Permit Requirements

The permit could have specific requirements for an individual to qualify for their initial issuance. Requirements could include the broad areas of academic and subject matter preparation, specialized training and development, and mentoring and guidance. Possible criteria for relevant preparation and requirements in the areas of academic and subject matter preparation, specialized training and development, and mentoring and guidance are provided in Table 2.

Table 2

Proposed TPSL Preparation and Requirements	
Academic and Subject Matter Preparation	
Degree Requirement	Bachelor’s or higher
Basic Skills Requirement (BSR)	Satisfaction of BSR
Subject Matter Competence Requirement	<p>One of the following options:</p> <ul style="list-style-type: none"> – Passage of California subject matter exams – A degree major or at least 18 (or 9 upper division) semester units in a statutory single subject area. – A degree major in liberal studies or 40 semester units including 10 semester units of course work in each of at least four specific subject areas¹ – Nine semester units of course work in special education
Specialized Training and Development	
Pre-service orientation and preparation	45 hours of locally developed preparation aligned with specified content areas of study as defined in regulations
Mentoring and Guidance	
Verification of Guidance, Assistance, and Mentoring	<p>Required, including:</p> <ul style="list-style-type: none"> – Staff Development Activities provided by the employing agency – An identified fully credentialed mentor teacher in the subject area of the TPSL holder’s assignment – The mentor teacher would assist with curriculum and lesson planning in the event that the teacher of record on leave has not developed the curriculum and lesson plans prior to their leave

Possible Accountability and Transparency

Such a permit could be restricted to service with the employing agency requesting the permit. An employing agency is defined as a California public school district, county office of education, nonpublic, nonsectarian school and agency as defined in Education Code sections 56365 and 56366, charter school, or statewide agency. The employing agency could be required to

¹ Subject areas include language studies, history, literature, humanities, mathematics, the arts, science, physical education, social science, and human development.

document each specific leave assignment that the permit holder is serving under and maintain this record on file at the district office. Monitoring and data collection of such assignments could be a component of the school district's annual assignment monitoring data collection and reporting to their local county office of education (COE) along with "teacher vacancies" and the documentation for that data could be subject to review by the COE as part of the one-fourth assignment monitoring conducted under Education Code section 44258.9. This would allow the Commission to gather data on how often employers use the permit for statutory leave assignments.

Possible Solution 2: Modification of Existing Short-Term Staff Permit (STSP)

Another possible solution to this issue might be to modify the existing STSP to allow for easier use when covering statutory teacher leaves. Unlike the PIP, the STSP does not require that the employing agency submit verification of recruitment efforts for a fully credentialed teacher for issuance, but it does require verification that a diligent search was conducted. Some considerations to this possible solution include the data and accountability complications that might arise when tracking the usage of the STSP for actual vacancies versus statutory teacher leave assignments as well as the current lack of renewability for the STSP.

Possible Solution 3: Modification of Service Limitation of Substitute Assignments

A third possible solution would be to modify the current 20 or 30 day limitation for serving in a substitute assignment. Such a modification would, however, require that the Commission seek out a sponsor for a bill, as the 20 day special education setting limitation is specified in California Education Code.

Next Steps

Should the Commission feel that the impact to students resulting from the statutory teacher leave issues described above warrants further exploration, staff could move forward by researching potential solution(s) to these issues.



Proposed Teaching Permit for Statutory Leave (TPSL)

Commission on Teacher

Credentialing, October 2015



Statutory Leave and Teaching

California public school employers today face significant challenges when it comes to balancing the needs of students with the legal obligations for teacher leaves set forth through Federal and State labor laws. Teacher leaves, as described more fully below, have increased steadily over the past decades and incongruently the options for employers to cover said leaves have not changed since the inception of the Emergency 30-Day Substitute Teaching Permit (SUBP) in 1981. This restricts a substitute's days of service to no more than 30 cumulative days for any one teacher of record during the school year (Title 5 section 80025), except in special education classrooms, where the holder may serve no more than 20 cumulative days (Education Code section 56061(a)). This may result in employers relying on a series of rotating substitute teachers which does not create a stable learning environment conducive to student success.

The current solutions available to employers for appropriately covering such leaves, which can extend up to five calendar months, do not best serve California's students. The myriad of legislative expansions of employee leave entitlements, including statutory federal and state leaves, pension reform restrictions for working after retirement, and the on-going shortage of teachers, including substitutes, have resulted in the need for a targeted solution to allow consistent service by interim teachers of record beyond 20 or 30 days in classrooms where the teacher of record is on a statutory leave.

Teacher Leaves in California

California public school employers must comply with the following Federal and State employee leaves which can result in long-lasting teacher absences:

- Sick Leave (Education Code Section 44978)
- Differential Sick Leave: 5 calendar months (Education Code Section 44977)
- Industrial Accident and Illness Leave: 60 days (Education Code Section 44984)
- Pregnancy Disability Leave Act: 4 months (Government Code Section 12945)
- Family and Medical Leave: 12 workweeks (Government Code Section 12945.2 & 29 U.S.C. §2601, et seq.)
- California Family Rights Act: 12 workweeks (Government Code Section 12945.2)

In some cases, such statutory leaves may be taken concurrently, or as is often the case, may be taken consecutively, extending the need for coverage well beyond the 20 or 30 day limitation set forth by the SUBP.

Limitations on Employer

Employers face limited options when it comes to finding an individual to teach during the teacher's leave, as such positions are not considered vacancies. Employers cannot advertise for or permanently fill a position where the contracted teacher of record is out on a statutory leave because the position legally belongs to the teacher of record who is on leave. As well, the length of statutory leave is unpredictable and may begin or end at any time, leaving little certainty for employees who are recruited for such positions. A contracted teacher's position must remain available to them upon their return from any statutory leave and cannot be filled by another contracted teacher.



Limitations of Certification

The circumstances of covering statutory leave for teachers are further exacerbated by the lack of Commission-issued documents available to cover such extended assignments. Currently, employers may rely on substitute teaching permits as previously mentioned, or they may employ individuals who hold other non-renewable teaching permits such as the Provisional Internship Permits (PIP) or Short-term Staff Permits (STSP). However, teaching permits such as the STSP and PIP were specifically designed to fill vacant teaching positions, not classrooms staffed by a fully credentialed teacher out on statutory leave. These permits require employers to conduct a diligent search for a fully credentialed teacher before they may be issued, making them inappropriate for covering statutory leaves, as many such leaves are spontaneous in nature. Again, employers may not recruit for a position to cover statutory leave as a vacancy.

Proposed Solution

As the Commission has authority to develop new permits, their associated requirements, and scope of authorization (Education Code section 44225(d)), the proposed targeted solution includes the proposed development of a new document titled *Teaching Permit for Statutory Leave (TPSL)*. This document could allow the holder to serve as the interim teacher of record when a contracted teacher of record is out on one of the identified statutory leaves noted within regulations. The proposed solution removes the need for rotating through several substitute teachers and instead provides for a consistent and stable learning environment for the students served by the TPSL holder. It also ensures that the interim teacher of record is significantly more prepared than a SUBP holder who is typically placed in such assignments and prevents employers from having to rely on documents such as the PIP or STSP which are not appropriate for such assignments. See Appendix A and B for charts comparing the intended purposes and requirements of the existing PIPs, STSPs, and SUBP with the proposed TPSL.

Proposed Teaching Permit for Statutory Leave (TPSL)

Proposed Authorization, Issuance, and Validity

The proposed TPSL could authorize service as the interim teacher of record for the full length of leave for any contracted teacher on a statutory leave as defined in regulations and statute.

A TPSL could authorize service in both the general education and special education classroom settings. The proposed TPSL could be issued for one calendar year and would only be available at the request of the employing agency that the document is restricted to. An educator could not apply directly to the Commission to request issuance of the proposed TPSL.

Proposed Permit Requirements

- Bachelor's or higher degree from an accredited college or university
- Satisfaction of the California Basic Skills Requirement
- A minimum of 20 semester units of non-remedial coursework across the following content areas with a minimum of one course in each content area: English, Social Studies, Mathematics, Science, Visual and Performing Arts, and Physical Education
- Completion of 45 hours of locally developed pre-service orientation and preparation aligned with specified content areas of study as defined in regulations
- Verification of Orientation, Guidance, Assistance, Mentoring, and Staff Development by the employing agency



Proposed Accountability and Transparency

Holders of the proposed TPSL would be restricted to service with the employing agency requesting the permit. An employing agency is defined as a California public school district, county office of education, nonpublic, nonsectarian school and agency as defined in Education Code sections 56365 and 56366, charter school, or statewide agency. **The proposed TPSL could not be used to fill teacher vacancies and would be appropriate solely for classrooms where the contracted teacher of record is on a statutory leave requiring an interim teacher of record to serve in their place until their return.** The employing agency could be required to document the specific leave assignment that the permit holder is serving under and maintain this record on file at the district office. Monitoring and data collection of such assignments could be a component of the school district's annual assignment monitoring data collection and reporting to their local county office of education (COE) along with "teacher vacancies" and the documentation for that data could be subject to review by the COE as part of the one-fourth assignment monitoring conducted under Education Code section 44258.9.

Proposed Relevant Preparation

The proposed TPSL could require the holder to complete 45 hours of locally developed relevant, targeted preparation that covers the significant concepts for an extended assignment in a special or general education classroom. The proposed TPSL holder could be stepping into a classroom position held by a fully prepared teacher and the majority of curriculum and lesson planning should already be complete prior to beginning the assignment. The focused preparation could emphasize topics such as pedagogy, ethics, best practices, and health and safety all within the local context.

As well, the proposed TPSL holder could be provided with a system of support by the employing agency. The permit holder could be required to be assigned a mentor teacher who serves in the same setting and/or subject area as the statutory leave assignment. The permit holder should also be given access to the same staff development activities offered to the regular teaching staff.

Proposed TPSL Renewals

The proposed TPSL could be renewable on an annual basis upon completion of additional hours of locally developed and preparation aligned with specified content areas of study defined in regulations as additional appropriate preparation that would not have been covered in the previous 45 hours of pre-service and preparation. This additional preparation is designed to build upon the previous training as follows:

First Renewal: Additional 45 hours

Second Renewal: Additional 45 hours

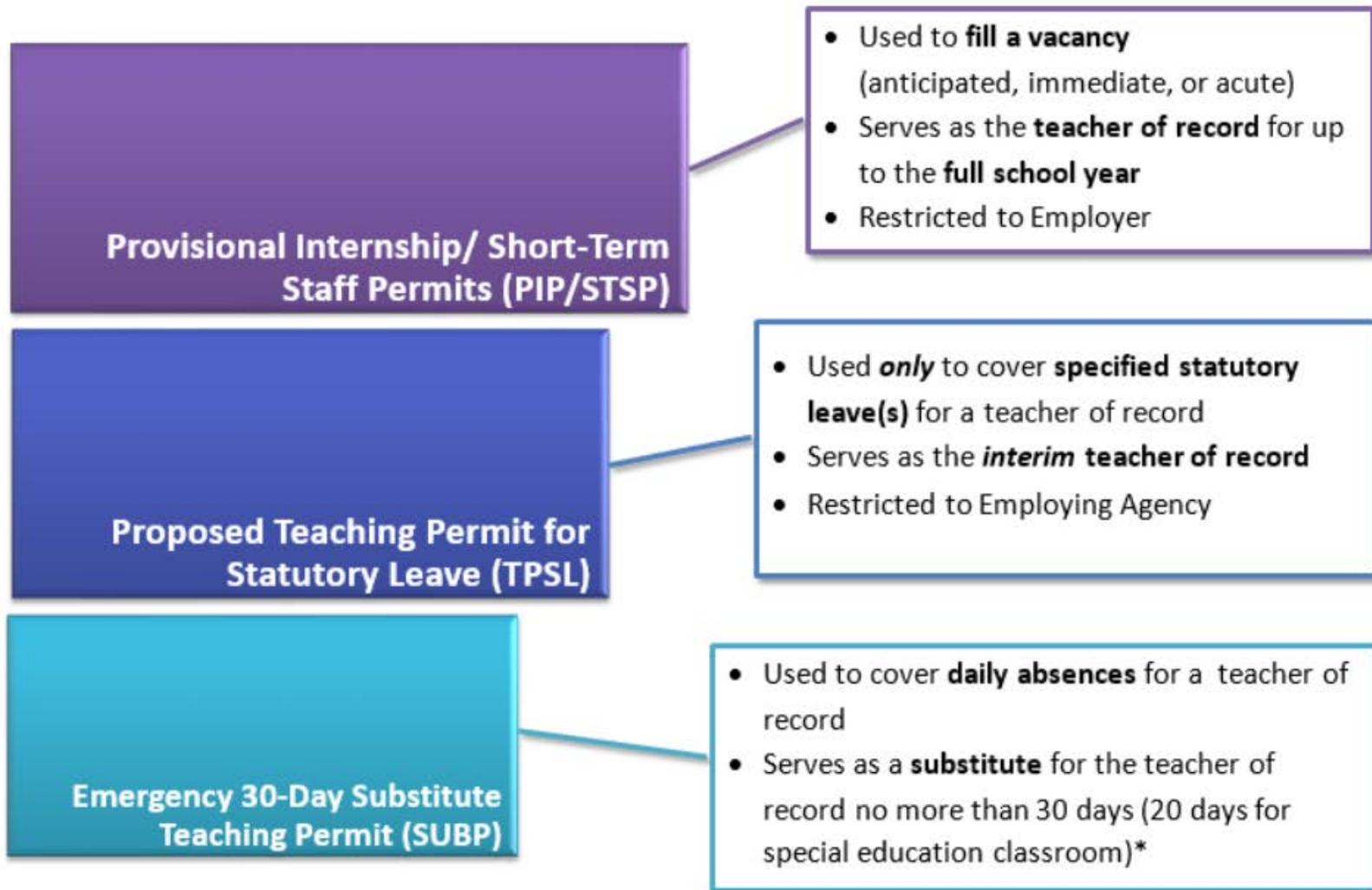
Third and Subsequent Renewals: Additional 12 hours of locally designed refresher training

The proposed TPSL is designed as a renewable resource to find a solution for the growing issue California public school employers are facing with adequately staffing a classroom when the assigned teacher is on statutory leave.

Appendix A

Proposed Teaching Permit for Statutory Leave (TPSL)

Comparison of Permit Purpose



*In any one school year; limited to 30 cumulative days for any one general education classroom or teacher and 20 cumulative days for any one special education classroom or teacher.

Appendix B

Proposed Teaching Permit for Statutory Leave (TPSL)

Comparison of Requirements

PIP/ STSP	TPSL	SUBP
<p>Provisional Internship/Short Term Staff Permits</p> <ul style="list-style-type: none">• Bachelor's or higher degree• Basic Skills Requirement• 40 semester units of coursework across specified content areas• Orientation and mentoring	<p>Proposed Teaching Permit for Statutory Leave</p> <ul style="list-style-type: none">• Bachelor's or higher degree• Basic Skills Requirement• 20 semester units of coursework across specified content areas• 45 hours locally developed pre-service preparation• Orientation and mentoring	<p>Emergency 30-Day Substitute Teaching Permit</p> <ul style="list-style-type: none">• Bachelor's or higher degree• Basic Skills Requirement