



CODED CORRESPONDENCE

DATE: March 7, 2007	NUMBER: 07-05
TO: All Individuals and Groups Interested in the Activities of the Commission on Teacher Credentialing	FROM: Dale A. Janssen Executive Director Commission on Teacher Credentialing
SUBJECT: Proposed Amendment to California Code of Regulations, Title 5 Sections 80121, 80124 and 80125 Pertaining to Variable Term Waivers	

Notice of Public Hearing is Hereby Given

In accordance with Commission policy, the following Title 5 regulations are being distributed prior to the public hearing. A copy of the proposed regulations is attached. The added text is underlined.

A public hearing on the proposed actions will be held:

**April 26, 2007
8:30 a.m.
Commission on Teacher Credentialing
1900 Capitol Avenue
Sacramento, California 95814**

Written Comment Period

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by e-mail on the proposed action. The written comment period closes at 5:00 p.m. on April 23, 2007. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 322-0048; write to the California Commission on Teacher Credentialing, attn. Rhonda Brown, 1900 Capitol Avenue, Sacramento, California 95814-4213; or submit an email at rbrown@ctc.ca.gov.

Any written comments received 18 days prior to the public hearing will be reproduced by the Commission's staff for each member of the Commission as a courtesy to the person submitting the comments and will be included in the written agenda item prepared for and presented to the full Commission at the hearing.

Authority and Reference

Education Code section 44225 authorizes the Commission to adopt the proposed action(s), which will implement, interpret or make specific sections 44225(g) and 44225(m) of the Education Code and govern the procedures of the Commission.

Informative Digest/Policy Statement Overview

Summary of Existing Laws and Regulations

Existing laws and regulations provide a system of assuring the public that the individuals who provide instruction in kindergarten and grades 1 to 12 public schools meet certain minimum requirements relative to their qualifications and preparation to teach.

More specifically: California Education Code, Section 44225(d) requires the Commission to establish standards for the issuance and renewal of credentials, certificates and permits; California Education Code, Section 44225(e) requires the Commission to determine the scope and authorization of credentials; California Education Code, Section 44225(g) requires the Commission to establish alternative methods for entry into the teaching profession and other certificated roles in the schools; and California Education Code, Section 44225(m) establishes the authority of the Commission to review requests for the waiver of one or more provisions governing the preparation or licensing of educators.

Title 5 Sections 80121, 80124 and 80125 are proposed to be amended due to significant changes in the method the Commission processes credential waivers. Credential waivers are an employment option available to employing agencies when there is a shortage of credentialed personnel. The Commission has had the responsibility for granting credential waivers since July 1994. When the Commission assumed this responsibility, the Appeals and Waivers Committee of the Commission reviewed and made recommendations to the Commission as a whole on credential waiver requests. Due to the significant reduction in the volume of credential waivers, the Commission determined it no longer needed to take action on waiver requests. As a result, the review and approval process of the Appeals and Waivers Committee and full Commission was eliminated; thus allowing staff the authority to issue credential waivers.

The change proposed to section 80121 would remove the option of an “individual” from having the authority to apply for a waiver. The proposed amendment to section 80124 would delete the Plan to Develop Fully Qualified Educators as an option to request a subsequent waiver. The two major proposed changes to section 80125 would establish a ninety (90) day submission timeframe for waivers and authorize Commission staff to review and determine the outcome of all waiver requests.

Section 80121

- *80121(c)(5)* When an employer has a shortage of credentialed personnel, the agency may request a Variable Term Waiver to meet its hiring needs. Staff is proposing

that the term “individuals” be removed from this section because a request for a credential waiver is initiated by an employing agency on behalf of a specific individual.

Section 80124

- *80124(a)* The Plan to Develop Fully Qualified Educators is being removed because this option expired on January 4, 2004 per Title 5 Section 80026.4.

Section 80125

- *80125(a)* Staff is proposing the form Variable Term Waiver Request (form WV1 1/98) be removed to allow the Commission to develop a new form for the waiver process and allow for future revisions without having to go through the regulatory process.
- *80125(b)* A credential waiver is an option of last resort for employing agencies to employ or assign individuals who are not appropriately credentialed for a particular subject area, grade level or group of students. The Commission took action to allow staff the authority to issue waivers. It is proposed that the submission guidelines be modified to a ninety (90) day timeframe to align the evaluation and approval process to staff’s authority to grant waivers. This change will expedite the waiver process and verify that those serving in an assignment on the basis of a credential waiver meet the minimum eligibility requirements within a reasonable amount of time.
- *80125(b)(1)* Staff is proposing that waiver requests that are not submitted within the revised ninety (90) day submission timeframe will be denied due to lateness. Individuals that serve on the basis of a credential waiver do not have the same level of experience and/or educational background of those who hold a credential, internship credential or emergency teaching permit. Timely submission and evaluation of the request is important to verify eligibility for the waiver document and to ensure prompt notification to all interested parties of the outcome of the waiver request.
- *80125(b)(2)* Staff is proposing a notification of denial for late submission of the waiver request be mailed to all parties involved indicating the applicant must be removed from the assignment when a waiver is not submitted within the required ninety (90) day timeframe.
- *80125(c)* A credential waiver is not an option if the applicant qualifies for a credential or permit that authorizes the same service. Staff is proposing that waiver requests submitted within the ninety (90) day submission timeframe that demonstrate eligibility for a credential or permit, may be returned for the appropriate document.
- *80125(c)(1)* It is proposed that under staff’s responsibility to evaluate and approve waivers, requests submitted within the established timeframes that demonstrate the

waiver eligibility requirements will be issued. The waiver document will indicate the applicant's credential goal and the service appropriate to that credential.

- 80125(c)(2) Staff is proposing that waiver requests that do not meet the eligibility requirements will result in the receipt of a denial notification by all interested parties.
- 80125(c)(2)(A) Staff is proposing that denial notifications for ineligibility explain the reasons for denial and allow the employer the opportunity to resubmit the waiver packet with new information that was not originally submitted. If the employing agency does not resubmit the request the applicant must be removed from the assignment.
- 80125(c)(3) Staff is proposing that waiver requests resubmitted for review within thirty (30) days of the denial notification will be re-evaluated. This allows the employing agency the opportunity to provide information that was not previously available to establish eligibility for the waiver document.
- 80125(c)(3)(A) Staff proposes that waiver requests resubmitted within the thirty (30) day resubmission timeframe that demonstrate eligibility for a credential or permit may be returned for the appropriate document. A credential waiver is not an option if the applicant qualifies for a credential or permit that authorizes the same service.
- 80125(c)(3)(B) Staff proposes that timely resubmissions that meet the waiver eligibility requirements will be issued. The waiver document will indicate the applicant's credential goal and the service appropriate to that credential.
- 80125(c)(3)(C) Staff is proposing that timely resubmissions that do not meet the eligibility requirements will receive a final denial notification at which time the applicant must be removed from the assignment.
- 80125(c)(4) Staff is proposing that waiver requests that are not resubmitted within the thirty (30) day resubmission timeframe will receive a final denial notification at which time the applicant must be removed from the assignment.

Documents Incorporated by Reference: None

Documents Relied Upon in Preparing Regulations: None

Disclosures Regarding the Proposed Actions

The Commission has made the following initial determinations:

Mandate to local agencies or school districts: None.

Other non-discretionary costs or savings imposed upon local agencies: None.

Cost or savings to any state agency: None.

Cost or savings in federal funding to the state: None.

Significant effect on housing costs: None.

Significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states: None.

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with Section 17500) of the Government Code.

Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Assessment regarding the creation or elimination of jobs in California [Govt. Code §11346.3(b)]: The Commission has made an assessment that the proposed amendments to the regulation would not (1) create nor eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: The Commission has determined that the proposed amendment to the regulations does not affect small businesses. The regulations are not mandatory but an option that affects school districts and county offices of education.

Consideration of Alternatives

The Commission must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. Interested individuals may present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

Contact Person/Further Information

General or substantive inquiries concerning the proposed action may be directed to Rhonda Brown by telephone at (916) 323-4714 or Rhonda Brown, Commission on Teacher Credentialing, 1900 Capitol Ave, Sacramento, CA 95814. General inquiries may also be directed to Janet Bankovich at (916) 323-7140 or at the address mentioned in the previous sentence. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission's web site at www.ctc.ca.gov. In addition, all the information on which this proposal is based is available for inspection and copying.

Availability of Statement of Reasons and Text of Proposed Regulations

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date this

notice is published in the Notice of Register, the rulemaking file consists of this notice, the proposed text of regulations, and the initial statement of reasons.

Modification of Proposed Action

If the Commission proposes to modify the actions hereby proposed, the modifications (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

Availability of Final Statement of Reasons

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public hearing. When it is available, it will be placed on the Commission's web site at www.ctc.ca.gov or you may obtain a copy by contacting Rhonda Brown at (916) 323-4714.

Availability of Documents on the Internet

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the regulations in underline and strikeout can be accessed through the Commission's web site at www.ctc.ca.gov.

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

§80121. General Provisions Governing Waivers.

(a) Definition of Terms. Terms that are used in Sections 80120 through 80124, inclusive, shall have the following meanings.

(1) The term "employing agency" means the school district; county office of education; private school; nonpublic, nonsectarian school or agency as defined in Education Code Sections 56365 and 56366; or postsecondary institution that submits a waiver application.

(2) "Applicant" means the individual for whom a waiver application is submitted.

(3) "SELPA" means a Special Education Local Planning Area.

(4) A "short-term waiver" is a temporary waiver with a term of one semester or less as described under Section 80120(a).

(5) A "variable term waiver" is a temporary waiver with a term as specified by the Commission.

(b) Waiver Service Restrictions. Except as specified by the Commission, service authorized by a waiver shall be restricted to the employing agency that submitted the waiver application and to the assignment specified on the waiver document.

(c) Authorization to Apply for Waivers. Each application for a variable term waiver shall be submitted to the Commission on behalf of the individual identified in the application. The following may submit applications for variable term waivers:

(1) public school districts in California;

(2) county offices of education or county superintendents of schools in California;

(3) postsecondary institutions; and

(4) private schools in California (in particular, nonpublic, nonsectarian schools and agencies as defined in Education Code Sections 56365 and 56366); ~~and~~

~~(5) individuals.~~

Note: Authority cited: Section 44225(q), Education Code. Reference: Section 44225, subdivisions (g) and (m), Education Code.

§80124. Requirements for a Request for a Subsequent Variable Term Waiver for a Specific Applicant.

(a) A request for a subsequent variable term waiver for a specific applicant in the same assignment shall meet the requirements of Section 80122 and must include verification that the applicant has fulfilled his or her commitment to pursue the completion of requirements leading toward the credential which authorizes the

~~service or has completed the alternative requirements specified in the employing agency's approved Plan to Develop Fully Qualified Educators.~~

Note: Authority cited: Section 44225(q), Education Code. Reference: Section 44225, subdivisions (g) and (m), Education Code.

§80125. Submitting Requests for Variable Term Waivers; Approvals and Denials

(a) ~~Requests for variable term waivers must be submitted on the form Variable Term Waiver Request (form WV1-1/98) which is incorporated by reference and provided by the Commission~~ a form developed and provided by the Commission and must include written documentation supporting the waiver, including, but not limited to: ~~such items as~~ dated copies of announcements of the vacancy, a job description detailing the specific employment criteria for the position, official transcripts, the original foreign transcript evaluation letter, examination score reports, and verifications of experience.

(b) A waiver request should be submitted to the Commission prior to the applicant's beginning day of service. ~~In those cases where an employing agency has an unanticipated need, the~~ The Commission will honor the beginning date of service listed on the waiver request as long as the waiver requests for individuals who require a Commission fitness review be is submitted in time to be reviewed by the Appeals and Waivers Committee at their first meeting following within ninety (90) days of the beginning date of service listed on the waiver request. ~~Failure to meet the first meeting deadline will result in a staff recommendation that the Commission deny the waiver request.~~

~~(c) In those cases where an employing agency has an unanticipated need and the waiver request is for an individual who has fingerprint clearance on file at the Commission, the Commission will honor the beginning date of service listed on the waiver request as long as the request is received in the Commission office for review by the Appeals and Waivers Committee by the waiver submission deadline for the third Commission meeting following the beginning date of service.~~

~~(1) If extenuating circumstances exist that are beyond the control of the employing agency and/or the applicant, the waiver request must be received in the Commission office by the waiver submission deadline for the fourth Commission meeting following the applicant's beginning date of service. A full explanation of the extenuating circumstances must accompany the waiver request.~~

~~(2) Waiver requests that are received in the Commission office after the waiver submission deadline for the third Commission meeting ninety (90) day deadline following the beginning date of service and that have no explanation of extenuating circumstances are included in the next Committee agenda with a staff recommendation for denial because of lateness. Representatives of the employing agency may appeal the staff recommendation to the Committee, but may not present information that was not available to the staff at the time of their review of the waiver request. If the Committee votes to recommend denial of the waiver request because it is late, the recommendation is presented to the full Commission in general session for action at the same Commission meeting will be denied due to lateness.~~

~~(3)(2) Waiver requests that are received in the Commission office after the waiver submission deadline for the fourth Commission meeting following the beginning date of service are administratively denied by Commission staff. The Commission shall promptly mail a notice of denial to the employing agency, the applicant, and the county office of education when applicable. Upon receipt of the denial notice, the employing agency must remove the applicant from the assignment at the end of the working day.~~

~~(d)(c) Waiver requests received within the ninety (90) day deadline following the beginning date of service are reviewed by Commission staff and may be returned for additional information or clarification before the request is scheduled for the Appeals and Waivers Committee agenda. Such returned requests should be resubmitted with the needed information to the Commission office as soon as possible, but must be received in the Commission office by the waiver submission deadline for the fourth Commission meeting following the beginning date of service. If the applicant qualifies for a credential or permit that authorizes the service, the waiver request may be returned for an application and fee, as appropriate, for the appropriate credential or permit authorizing the service.~~

~~(1) Waiver requests that are received in the Commission office too late to be returned to the employing agency for additional information and resubmitted in time to be reviewed by the fourth Commission meeting are included in the next Committee agenda with a staff recommendation for denial because of the missing information. New information from the employing agency may be presented to the Committee at the meeting. The request proceeds as described in subsection (d) below When the applicant meets the requirements as specified in Section 80122, and following the conclusion of a fitness review performed by the Division of Professional Practices, a numbered waiver document will be issued. The waiver document identifies the applicant's credential goal and authorizes the service appropriate to that goal.~~

~~(2) Waiver requests that are resubmitted with additional information after the waiver submission deadline for the fourth Commission meeting following the beginning date of service are included in the next Committee agenda with a staff recommendation for denial because of lateness. Representatives of the employing agency may appeal the staff recommendation to the Committee and must include the additional information requested by staff at the time of their review of the waiver request. If the Committee votes to recommend denial of the waiver request because it is late, the recommendation is presented to the full Commission in general session for action at the same Commission meeting When the applicant does not meet the requirements as specified in Section 80122 or insufficient information is provided by the employing agency the waiver will be denied. The Commission shall promptly mail a notice of denial to the employing agency, the applicant, and the county office of education when applicable.~~

~~(A)The denial notice will explain the reasons for the denial and afford the employing agency an opportunity to submit additional information in support of the waiver request that was not available at the time the request was originally submitted. If the waiver request is not resubmitted per (c)(3) of this section, upon receipt of the denial~~

notice, the employing agency must remove the applicant from the assignment at the end of the working day.

(3) Waiver requests that were denied for insufficient information or ineligibility that are resubmitted with additional information after the waiver submission deadline for the fifth Commission meeting following the beginning date of service are administratively denied by Commission staff within thirty (30) days of the date on the denial notice are reviewed by Commission staff.

(A) When the applicant qualifies for a credential or permit that authorizes the service, the waiver request may be returned for an application and fee, as appropriate, for the credential or permit authorizing service.

(B) When the applicant meets the requirements as specified in 80122, and following the conclusion of a fitness review performed by the Division of Professional Practices, a numbered waiver document will be issued. The waiver document identifies the applicant's credential goal and authorizes the service appropriate to that goal. The Commission shall promptly mail a notice of denial to the employing agency, the applicant, and the county office of education when applicable. Upon receipt of the denial notice, the employing agency must remove the applicant from the assignment at the end of the working day.

(C)When the applicant does not meet the requirements as specified in Section 80122 or insufficient information is provided by the employing agency the waiver will be denied. The Commission shall promptly mail a final notice of denial to the employing agency, the applicant, and the county office of education when applicable. Upon receipt of the final denial notice, the employing agency must remove the applicant from the assignment at the end of the working day.

(4) Waiver requests that were denied for insufficient information or ineligibility that are resubmitted after thirty days of the denial will be denied. The Commission shall promptly mail a final notice of denial to the employing agency, the applicant, and the county office of education when applicable. Upon receipt of the final denial notice, the employing agency must remove the applicant from the assignment at the end of the working day.

~~(e)The Appeals and Waivers Committee may vote to recommend either approval or denial of a waiver request, or may postpone the decision until the next meeting if additional information is needed.~~

~~(1) If the Committee votes to recommend approval of a waiver request, the recommendation is presented to the full Commission in general session during that meeting for final vote. The full Commission may either vote to confirm approval which becomes effective immediately or vote to return the request to the Committee for further consideration.~~

~~(A) After the waiver is approved, and following the conclusion of any fitness review that may be performed by the Division of Professional Practices, a numbered waiver document is issued. The waiver document identifies the applicant's credential goal and authorizes the service appropriate to that goal.~~

~~(2) If the Committee votes to recommend denial of a waiver request, except for the reason of failure to meet the specified timelines as described in subsections (c)(2) and (d)(2) above, the following procedure is initiated:~~

~~(A) The employing agency is sent a letter explaining the reasons for the Committee's recommendation to deny and affording the employing agency an opportunity to submit additional written information in support of the waiver request that was not available at the time the request was originally submitted. Resubmission must be received in the Commission office by the printed agenda cut off date for the next Commission meeting (approximately two weeks following the mailing of the letter) or no reconsideration will be presented to the Committee.~~

~~(B) If no timely reconsideration request is received, the recommendation for denial is presented to the full Commission in general session for action at the next scheduled Commission meeting. The full Commission may vote to confirm denial, to amend the Committee's decision, or to return the request to Committee for further consideration. The Commission shall mail a notice of denial the Monday following the Commission meeting to the employing agency, the applicant, and the county office of education when applicable. Upon receipt of the denial notice, the employing agency must remove the applicant from the assignment at the end of the working day.~~

~~(C) If timely reconsideration is requested, the request appears again in the Appeals and Waivers Committee agenda. The Committee may vote to recommend approval or may vote to sustain its recommendation of denial. The Committee's recommendation is presented to the full Commission in general session during that meeting for final vote.~~

~~(D) The full Commission may vote to confirm or amend the Committee's decision. If the waiver request is approved, and following the conclusion of any fitness review that may be performed by the Division of Professional Practices, a numbered waiver document is issued. The waiver document identifies the applicant's credential goal and authorizes the service appropriate to that goal. If the full Commission votes to deny the waiver request, it shall mail a notice of denial the Monday following the Commission meeting to the employing agency, the applicant, and the county office of education when applicable. Upon receipt of the denial notice, the employing agency must remove the applicant from the assignment at the end of the working day.~~

Note: Authority cited: Section 44225(q), Education Code. Reference: Section 44225, subdivisions (g) and (m), Education Code.

CALIFORNIA COMMISSION ON TEACHER CREDENTIALING

Box 944270 (1900 Capitol Avenue)
 Sacramento, California 94244-2700



Attn: Rhonda Brown, CAW Division

Title: *Variable Term Waivers*

Section: *Proposed Amendments to Sections 80121, 80124 and 80125*

Response to the Attached Title 5 Regulations

To allow the California Commission on Teacher Credentialing to more clearly estimate the general field response to the attached Title 5 Regulations, please return this response form to the Commission office, attention Rhonda Brown, at the above address or fax to her attention at (916) 322-0048. The response must arrive at the Commission by 5:00 pm April 23, 2007, for the material to be presented at the April 26, 2007, public hearing.

1. **Yes**, I agree with the proposed Title 5 Regulations. Please count me in favor of these regulations.

2. **No**, I do not agree with the proposed Title 5 Regulations for the following reasons:

(If additional space is needed, use the reverse of this sheet or additional page.)

3. Personal opinion of the undersigned and/or

Organizational opinion representing: (Circle One)

School District, County Schools, College/University, Professional Organization, Other _____

4. I shall be at the public hearing. Place my name on the list for making a presentation to the Commission.

No, I will not make a presentation to the Commission at the public hearing.

Signature: _____ Date: _____

Printed Name: _____

Title: _____ Phone: _____

Employer/Organization: _____

Mailing Address: _____

Route to REB