

COMMISSION ON TEACHER CREDENTIALING

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(916) 445-7254

95-9505



OFFICE OF THE EXECUTIVE DIRECTOR

DATE: March 15, 1995

TO: All Individuals and Groups Interested in the Activities of the
Commission on Teacher CredentialingFROM: 
Philip A. Fitch, Ed.D.
Executive DirectorSUBJECT: Proposed Amendments and Additions to Title 5, California Code
of Regulations, Concerning Credential 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:

Proposed Amendments to Sections 80120, 80121, 80122, 80123 and 80124
Proposed Addition of Section 80125

The public hearing is scheduled for:

May 4, 1995
2:00 PM
Hyatt Regency Hotel
1209 L Street
Sacramento, CA 95814

Statement of Reasons**Purpose/Effect of Proposed Action**

The proposed changes to Section 80120 are intended to provide a clear and more
complete definition of Variable Term Waivers. All Variable Terms Waivers
provide employing agencies and/or applicants with additional time. Proposed
subsection (b)(2) adds the most common situation requiring more time, that in

which the employing agency finds there is an insufficient number of certificated persons who meet the specified employment criteria for the position.

The first proposed change to Section 80121 names specifically "nonpublic, nonsectarian schools and agencies" as they are defined in the Education Code as employing agencies for the purpose of submitting requests for credential waivers. Additional changes emphasize that waivers are temporary expedients and allow for the approval of a waiver for less than one year.

Section 80122 has been revised to include only Variable Term Waivers; the information about Short-Term Waivers has been moved to Section 80123.

- In subsection (b) the proposed change is intended to clarify the wording so there is no confusion that the Commission reviews waivers for credentials that are to be used for assignment in school programs addressing issues of reform. It does not review waivers for restructuring, which still go to the State Board of Education.
- Subsections (c) and (d) are being amended to specify the type of information that needs to be included on the waiver request.
- The change in subsection (e) clarifies that each waiver request must be submitted on behalf of a single individual.
- The proposed changes to subsection (g) clarify the need for the applicant to understand what he or she must do to qualify for the credential that authorizes the service covered by the waiver request. They also specify the commitment that must be made by the applicant to pursue a course of study for the appropriate credential and by the employer to support the applicant in that pursuit. Information about requirements, commitment, and support formerly appeared in Section 80123(b)(1).
- Subsection (h) proposes to formalize the contact between an employer hiring special education teachers on waivers and the Special Education Local Plan Area (SELPA). It also includes the information about geographically isolated regions that used to appear in Section 80123(b)(2).
- The proposed change to subsection (i) clarifies that the effective date of the waiver is the beginning date of service.
- Subsection (j) includes a new requirement that waiver requests be approved by the governing board of a school district at a public meeting, or in the case of a county office of education or a nonpublic, nonsectarian school or agency, that a notice of the intent to employ an applicant on a waiver be posted.
- Finally, the proposed changes to subsection (k) specify who may sign a waiver request certifying that the information provided is accurate and complete.

Section 80123 on Short-Term Waivers proposes to streamline what must be included in the notification that employing agencies send to their county office of education and what the county offices of education send to the Commission pursuant to the statutes and regulations governing the monitoring and reporting of employee assignments. All of the information about Variable Term Waivers has been removed.

The proposed changes to Section 80124 make clear that a request for a subsequent waiver for an individual must include verification of the applicant's progress toward meeting credential requirements.

Finally, the Commission proposes to add Section 80125 to specify the requirements for submitting waiver requests, including the forms to use and the pertinent deadlines. The section also covers the procedures used by the Appeals and Waivers Committee when recommending either approval or denial of waiver requests.

Documents Relied Upon in Making Determination to Change These Regulations

The following documents were used to make the determination to seek these changes and additions to the regulations governing emergency permits:

- Agenda items approved by the Appeals and Waivers Committee and the Commission concerning the process for requesting waivers and the procedures of the Committee, including:
 - C&CA-2/August 18, 1994: Proposed Changes to Emergency Permits and Waiver Review Procedures
 - A&W-6/February 1, 1995: Proposed Procedures for Reconsidering Denials of Credential Waivers upon Request of Employers.

Alternatives Considered

The Commission must determine that no alternative considered will be more effective in carrying out the purpose for which the action is proposed or will be as effective and less burdensome to affected private persons or small businesses than the proposed action.

Written Comment Period

Any interested person, or his or her authorized representative, may submit written comments on the proposed actions. The written comment period closes at 5:00 p.m. on May 3, 1995. Any written comments received 14 days prior to the public hearing will be reproduced by the Commission's staff for each Commissioner as a courtesy to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

Submission of Written Comments

A response form is attached for your use when submitting written comments to the Commission. Please send it to the Commission at 1812 9th Street, Sacramento, CA 95814-7000 so that it is received at least one day prior to the date of the public hearing.

Public Hearing

Oral comments on the proposed action will be taken at the public hearing. We would appreciate 14 days advance notice in order to schedule sufficient time on the agenda for all speakers. Please contact Dr. Philip A. Fitch, Executive Director, at (916) 445-0184 regarding this.

Any person wishing to submit written comments at the public hearing may do so. It is requested, but not required, that persons submitting such comments provide twenty-five copies. All written statements submitted at the hearing will, however, be given full consideration regardless of the number of copies submitted.

Modification of Proposed Actions

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.

Contact Person/Further Information

Inquiries concerning the proposed action may be directed to Bobbie Fite (916-445-5857). 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. Also available upon request, a copy of the proposed action written in plain English (i.e., written at the eighth grade level) will be made available. In addition, all the information upon which this proposal is based is available for inspection and copying.

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OFFICE OF THE EXECUTIVE DIRECTOR

Attn: Philip A. Fitch, Ed.D., Executive Director

Title: CREDENTIAL WAIVERS
 Section Nos.: Proposed amendments to sections 80120,
 80121, 80122, 80123, and 80124
 Proposed addition of section 80125

Response to the Attached Title 5 Regulations

So that the Commission on Teacher Credentialing can more clearly estimate the general field response to the attached Title 5 Regulations, please return this response form to the Commission office at the above address by 5 pm on May 3, 1995, in order that the material can be presented at the May 4, 1995, 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.)
3. Personal opinion of the undersigned. and/or
4. Organizational opinion representing: _____
 (Circle One) School District, County Schools, College, University, Professional Organization, Other
5. I shall be at the public hearing, place my name on the list for making a presentation to the Commission.
6. No, I will not make a presentation to the Commission at the public hearing.

Signature: _____ Date: _____

Printed Name: _____

Title: _____ Phone: _____

Employer/Organization: _____

Mailing Address: _____

**DIVISION VIII OF TITLE 5
CALIFORNIA CODE OF REGULATIONS**

**PROPOSED AMENDMENTS TO SECTIONS 80120, 80121,
80122, 80123, and 80124
PROPOSED ADDITION OF SECTION 80125
CONCERNING CREDENTIAL WAIVERS**

80120. Purpose and Categories of Waivers.

The following categories of waivers will be considered under the provisions of Education Code Section 44225 (m):

- (a) Short-Term Waivers: Waivers to give local agencies one semester or less to address unanticipated, immediate, short-term organizational needs by assigning teachers who hold a basic credential to teach outside of their credential authorization, with the teacher's consent.
- (b) Variable Term Waivers: Waivers to provide applicants with additional time to complete the requirements for the credential that authorizes the service or to provide employing agencies time to fill the assignment with an individual who either holds an appropriate credential or qualifies under one of the available assignment options. This includes:
 - (1) Waivers to facilitate assignment in school programs addressing issues of educational reform or restructuring;
 - (2) ~~Waivers to provide educators with additional time to complete a requirement;~~ Waivers to employ or assign identified individuals when the employing agency finds there is an insufficient number of certificated persons who meet the specified employment criteria for the position;
 - (3) Waivers to temporarily exempt geographically isolated regions, which have severely limited ability to develop personnel, from specific state requirements for educator preparation, licensing or assignment; or
 - (4) Other temporary waivers granted at the discretion of the Commission.

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

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 ~~of one year or longer~~ 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 ~~or individuals~~ 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;
 - (4) private schools in California (in particular, nonpublic, nonsectarian schools and agencies as defined in Education Code Sections 56365 and 56366); and

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

80122. ~~General Requirements for the Granting of~~ Variable Term Waivers.

~~The following requirements apply to all waivers.~~ The application for a variable term waivers shall include all of the following:

- (a) Name of Employing Agency. The application shall identify the employing agency seeking a waiver.
- (b) Section Number. The application shall cite the specific Education Code or Title 5 section number(s) for which a waiver is being requested. In the case of waivers for the purpose of assignment in school programs addressing issues of educational reform or restructuring, the application may instead identify the plan under which the reform ~~or restructuring~~ will take place and, if applicable, the date when the plan was approved by the employing agency or the appropriate state agency, whichever came later.
- (c) ~~Purpose of the Reason for~~ Waiver. The application shall summarize the ~~purpose of reason~~ the waiver is being requested, including ~~the language in the Education Code Section, or the provisions of Title 5, California Code of Regulations, for which the waiver is being requested, but not limited to, the specific employment criteria for the position that must be filled, a description of the efforts to locate and recruit individuals who hold the appropriate credential or who can be assigned under one of the available assignment options, and a description of the efforts the employing agency has made to establish alternative training options such as co-sponsoring internships with institutions of higher education or establishing a District Intern program.~~
- (d) Proposed Solution ~~and Justification~~. The application shall describe how the waiver request will remedy the situation, give the rationale for the request including what makes the applicant the best candidate to fill the position, and describe any negative effect(s) that are likely to occur if the request is not granted.

- (e) Identification of Applicant ~~or Applicants~~. The application shall identify, by name, date of birth and Social Security number, the applicant ~~or applicants~~ for whom the waiver is ~~intended~~ requested.
- (f) If the applicant does not already have fingerprint clearance on file with the Commission, the application must include two fingerprint cards and the completed Application for Character and Identification Clearance (form 41-CIC, rev 11-93), and appropriate fee(s).
- (g) Requirements and Commitment. The request shall:
- (1) list the requirement(s) that the applicant must complete to be eligible for the credential which authorizes the service being requested and the anticipated date(s) of completion of those requirement(s).
 - (2) include a commitment by the applicant, in the form of an original signature, to pursue a course of study leading to full certification, with the understanding that no subsequent waiver will be requested should the applicant fail to verify completion of requirement(s) leading toward the credential or completion of the alternative requirement(s) specified in the employing agency's approved Plan to Develop Fully Qualified Educators.
 - (3) list the name and/or position of any person assigned to provide support and assistance to the applicant while he or she is serving on the waiver, and
 - (4) state that the employing agency has made a commitment to support and assist the applicant, as feasible, in completing the credentialing requirement(s).
- (h) Additional Requirements
- (1) To fill a position to serve special education students, the employing agency must include the SELPA among those receiving notice of the intent to request a waiver.
 - (2) Waiver requests from geographically isolated regions with severely limited ability to develop personnel shall include a Plan to Develop Fully Qualified Educators pursuant to Section 80026.4, or an explanation as to why such a plan is not feasible.
- (g) (i) Effective Date and Proposed Duration. The application shall specify the effective beginning date of service on the waiver and the date when the waiver will cease to be needed.
- (j) Public Notice. The request shall include verification that a notice of intent to employ the applicant in the position identified has been made public as follows:
- (1) If the waiver request is being submitted by a public school district, it must include a copy of the agenda item presented to the governing board of the district in public meeting with a signed statement from the superintendent, or his or her designee, that the item was acted upon favorably.
 - (2) If the waiver request is being submitted by a county office of education, state operated school, or nonpublic, nonsectarian school or agency, it must include a dated copy of the notice that was posted at least 72 hours before the position was filled and a signed statement from the

superintendent or administrator or his or her designee that there were no objections to the waiver request.

- (h) ~~(k)~~ Signatures. The application shall include the signature of the district personnel administrator or superintendent or the county superintendent if service will be provided in a county-operated school or the administrator of the state-operated school or of the nonpublic, nonsectarian school or agency, or his or her designee certifying that the information provided is accurate and complete.

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

80123. Requirements for Specified Categories of Short-Term Waivers.

- (a) Local Approval of Short-Term Waivers. Employing agencies may grant a short-term waiver as described under Section 80120(a) without prior approval by the Commission, provided that a short-term waiver may be issued one time only for any individual, and one time only for a given class. ~~The information required under Section 80122 for this type of waiver shall be forwarded to the County Office of Education pursuant to Education Code Section 44258.9. The Commission may rescind the authority of any employing agency to grant a short-term waiver upon a finding that the agency has intentionally violated any provision of Section 80120-80123, California Code of Regulations.~~
- ~~(b) Applications for Variable Term Waivers shall be submitted to the Commission by the employing agency or, if the applicant is not employed by an employing agency, by the individual, as follows:~~
- ~~(1) Waivers to provide educators additional time to complete a requirement shall, in addition to the requirements specified under Section 80122, provide the following:
 - ~~(A) the credential requirement(s) that must be completed;~~
 - ~~(B) a commitment by the applicant, in the form of a signature, to complete the requirement, with the proposed date by which the requirement is to be completed;~~
 - ~~(C) the name and position of any person assigned to provide support and assistance to the applicant while he or she is serving on the waiver; and~~
 - ~~(D) a commitment by the employing agency to support and assist the applicant, as feasible, in completing the credentialing requirement.~~~~
 - ~~(2) Waivers to temporarily exempt, geographically isolated regions, with severely limited ability to develop personnel, from certain state requirements for educator preparation and licensing shall, in addition to the requirements specified under Section 80122, include a Plan to Develop Fully Qualified Educators pursuant to Section 80026.4 of Title 5, or a brief explanation as to why such a plan cannot be submitted.~~
 - ~~(3) Applications for a waiver for the purpose of reform or restructuring shall meet the requirements set forth in Section 80122.~~
 - ~~(4) Applications for other temporary waivers granted at the discretion of the Commission shall meet the requirements set forth in Section 80122.~~

- (e) ~~Applications for a Variable Term Waiver shall include a statement signed by the applicant stipulating that to renew the waiver, the applicant must pursue a course of study leading to full certification.~~
- (b) Notification of County Offices. Pursuant to Education Code Section 44258.9, school districts using a short-term waiver shall provide the following information to the county office of education:
- (1) Identification of the Applicant. The notification shall identify, by name and Social Security number, the individual for whom the short-term waiver was issued.
 - (2) Authorization and Assignment. The notification shall specify the credential that the individual holds and the assignment that the individual is filling as a result of the short-term waiver.
 - (3) Reason for Waiver. The notification shall explain the situation that led to the need for the short-term waiver.
 - (4) Effective Date and Proposed Duration. The notification shall specify the beginning and ending dates of service on the waiver.
 - (5) Other. The county office of education may require other information as necessary.
- (c) Notification of the Commission. Pursuant to Education Code Section 44258.9(d), county offices of education shall report the use of short-term waivers as described in subsection (b) above in school districts and in county-operated schools to the Commission annually. In addition, the Commission may request information concerning the use of short-term waivers from other employing agencies.
- (d) The Commission may rescind the authority of any employing agency to grant a short-term waiver upon a finding that the agency has intentionally violated any provision of Sections 80120 or 80123.

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

80124. ~~Specific Requirements for the Renewal of a Request for a Subsequent Variable Term Waivers for a Specific Applicant.~~

- (a) ~~Applications for the renewal of 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.~~
- (b) ~~Applications for the Renewal of a Variable Term Waiver for the Purpose of Temporarily Exempting Educators in Geographically Isolated Regions shall include a Plan to Develop Fully Qualified Educators pursuant to Section 80026.4 of Title 5, or a brief explanation as to why such a plan cannot be submitted.~~

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 a form provided by the Commission (form WV1) and must include written documentation supporting the waiver, including 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 Commission will honor the beginning date of service listed on the waiver request as long as the request is submitted to the Commission in time to be reviewed within two Commission meetings of the beginning date of service.
- (c) Waiver requests 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. If the applicant qualifies for a credential or permit that authorizes the service, the waiver request may be returned for an application and fee for the credential or permit.
- (d) 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 Legal and Professional Standards Division, a numbered Waiver Approval Letter is issued. The Waiver Approval Letter 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, 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 appears on the general session agenda for action by the full Commission at the next scheduled Commission meeting. The full Commission may either vote to

- confirm denial which becomes effective immediately or vote to return the request to Committee for further consideration.
- (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) A final notice of denial is mailed to the employing agency, the applicant, and the county office of education, if applicable.

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