

**CALIFORNIA COMMISSION ON TEACHER CREDENTIALING**

1812 Ninth Street  
Sacramento, California 95814-7000  
(916)445-7254



98-9801

DATE: January 16, 1998

TO: All Individuals and Groups Interested in the Activities of the  
Commission on Teacher Credentialing

FROM: Sam W. Swofford, Ed.D.  
Executive Director

SUBJECT: Proposed Amendments to Sections 80122 and 80125 of Title 5,  
California Code of Regulations, Pertaining to Variable Term  
Waivers

**Notice of Public Hearing is Hereby Given:**

In accordance with Commission policy, proposed Title 5 Regulations are being distributed prior to the public hearing. A copy of the proposed regulations is attached. The added text is underlined, while the ~~deleted~~ text is lined-through. The public hearing is scheduled on:

March 5, 1998  
1:30 pm  
Sterling Hotel  
1300 H Street  
Sacramento, California

**Statement of Reasons**

Variable term waivers are requested by employing agencies having difficulty employing appropriately credentialed individuals for long term positions. The amendments to §80122 clarify the information contained in the notification that alerts the public to the possible employment of an individual based on a variable term waiver. The amendments to §80125 include an updated edition of the Variable Term Waiver Request form and reduce the time allowed for the submission of the request made for individuals who require a Commission fitness review. A more detailed discussion of these amendments follows.

### *§80122 Requirements for Variable Term Waivers*

Current regulations governing waivers require that a notice of intent to employ an applicant be made public and that a copy of the notice be submitted with the waiver request. However, the regulations do not clearly specify the information that must be contained in the public notice. The proposed amendments to sub-section 80122(j) specify that the public notice for waiver requests must include the name of the candidate for whom the waiver is being requested, the specific assignment including the subject(s) and grade level(s) the candidate will be teaching and the fact that the candidate will be employed based on a credential waiver.

It is important for the public notice statement to include the name of the applicant and his or her specific assignment so the parents, school board members, and any other interested parties are aware of the credential status of educators working with the children. This gives the board, parents, and others an opportunity to more easily address any concerns they may have about the prospective employee's qualifications for serving in the position. It is also important for the notice to state that the applicant will be employed based on a credential waiver so that the board and public understand that the person has not met the minimum requirements for an emergency permit or other appropriate certification.

The fact that the regulations do not specify the information which must be included in the public notice has resulted in confusion among employers and others. Because of the lack of clarity, numerous formats of the public notice have been submitted with waiver requests. Examples of these misleading public notice statements range from omitting the waiver candidate's name and assignment to erroneously indicating that the candidate will serve on an emergency permit rather than a waiver. The proposal to require this precise information in the public notice would clearly alert all those interested, including parents and board members, that employers are considering filling specific positions with individuals on the basis of credential waivers. These amendments would also establish consistency and alleviate confusion among employers.

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

The amendments to this section are an indirect result of the passage of Assembly Bill 1612, that became effective on September 30, 1997. This bill significantly affects the employment practices of certificated personnel by California school districts. Under this bill, a district must first ascertain through a fingerprint check with the California Department of Justice (DOJ) that an educator has not been convicted of a violent or serious felony prior to placement in a certificated position. This review is taking approximately one month. The educators affected by AB 1612 are those seeking first-time employment with the district, including those new to the California public

schools, and those already with the district but whose certification, whether a renewal of an existing document or another type needed for a new position, is in process. All individuals holding any type of current certification issued by the Commission have already undergone a personal and professional fitness review.

The Commission's fitness review is more extensive than that authorized by AB 1612, including information from not only the Department of Justice, but also the Federal Bureau of Investigation and any prior state departments of education that certified the individual. The Commission is not limited to AB 1612's "convictions of violent or serious felonies," but reviews any arrest information received from these agencies, whether a conviction resulted or not. Because of this higher standard, individuals may be employed based on the criteria established in this legislature yet be denied a waiver. Due to the thoroughness of the Commission's fitness process, it may take an average of four to six months to complete.

In considering these issues, the following discusses the proposed amendments pertaining to the variable term waiver regulation, §80125.

*Current §80125(b)*

The purpose of the proposed amendments to §80125(b) is to shorten the time between the AB 1612 Department of Justice employment check and the Commission's fitness review. Currently, an individual, who has an AB 1612 employment check, may be placed in a certificated position as long as the waiver is submitted by the agenda deadline for the third Commission meeting following the first date of employment, whether a fitness review is needed or not. The agenda deadline is roughly 3 weeks prior to the Commission meeting, and the meetings are held eleven times a year, once each month except September. Then the four- to six-month fitness review is initiated. This may mean that some individuals who may not have records of violent or serious felony convictions, but who have arrest records or plea bargained lesser penalties that suggest they might be a danger to children, may remain in a classroom for up to a year. Revising the regulations to require submission of these waiver requests for review by the first rather than third Commission meeting will prevent an unneeded delay in the review process.

The following chart shows two possible scenarios. The first shows a situation under current regulations in which an individual is employed in mid-February and the Commission's review is completed in October. The

second scenario is based on the proposed regulations and illustrates the reduction in the delay.

| UNDER CURRENT REGULATIONS  |  |
|----------------------------|--|
| January 15                 | AB 1612 fingerprints submitted to DOJ                                    |
| <i>February 14</i>         | <i>first day of employment</i>   |
| May 15                     | submit waiver request to the Commission                                  |
| June 5                     | review of academic qualifications  |
| June 8                     | Commission's fitness review begins                                       |
| <i>October</i>             | <i>Commission's fitness review completed and waiver issued or denied</i> |
| UNDER PROPOSED REGULATIONS |  |
| January 15                 | AB 1612 fingerprints submitted to DOJ                                    |
| <i>February 14</i>         | <i>first day of employment</i>   |
| March 13                   | submit waiver request to the Commission                                  |
| April 3                    | review of academic qualifications  |
| April 6                    | Commission's fitness review begins                                       |
| <i>August</i>              | <i>Commission's fitness review completed and waiver issued or denied</i> |

*New §80125(c)*

As in the current regulations, the proposed §80125(c) clarifies that waivers not requiring fitness review must be submitted by the agenda deadline for the third Commission meeting following the first date of employment.

*§80125(a)*

Within this sub-section, form WV1 8/95 is incorporated by reference. The proposal will include a revision of the 1995 edition and the title of the form, *Variable Term Waiver Request*. The major change to the form is directed to the cases that require an AB 1612 Department of Justice employment check and a fitness review by the Commission. This would ensure that the employer requesting the waiver fully understands that even though the AB 1612 employment check has been completed for the applicant, the Commission still needs to complete their fitness review. To ensure this, the employer will be required to sign the following affirmation.

The person for whom this waiver is requested will not be employed until he or she has been cleared by the Department of Justice under the provisions of Education Code Section 44332.6 and Section 44830.1 (AB 1612). The employer acknowledges that the Commission's final approval of this individual's waiver will be determined by a fitness review covering, in part, criminal activity, including certain in-state and/or out-of-state convictions.

Other changes found in the proposed Variable Term Waiver Request form with their appropriate Title 5 references, are listed below. A copy of the 1995 form and the proposed 1998 form are attached.

1. The Commission's name has been changed in the heading from Commission on Teacher Credentialing to California Commission on Teacher Credentialing to clarify that the Commission is a state agency.
2. The first and second introductory paragraphs reference the division of authority between the Commission and the State Board of Education or the State Superintendent of Public Instruction, the purpose of waivers, and the agencies that may request waivers. They have been removed because this information is in the instructions.
3. The proposed introductory paragraph clarifies that requests must be prepared by the employing agency rather than the applicant. §80122(k)
4. In section 3, the request for a description of the section to be waived has been removed because the section number gives sufficient information. §80122(b)
5. In the proposed section 4, which is section 7 on the 1995 form, the requirement regarding the needed explanation of any delay in submitting the waiver request after the "third-meeting" date has been added. Current §80125(b)(1)
6. The proposed section 5 has been added to clarify which certificated positions have been designated as shortage areas. The Commission has determined that these are areas of high need and do not require further justification from the employers. §80122(c)
7. Sections 6 through 8 on the 1998 proposal revise the current sections 4 and 5. The changes, which are presented in a clearer format, will help the employers provide more specific information needed by the Commission to make a determination on the waiver. §80122(c) & (d)
  - a. The re-formatting found in the new section 6 helps employers indicate the recruitment method(s) used and easily indicates to the Commission what effort was made to obtain certificated educators.
  - b. The new section 7 references positions that are not designated as shortage areas. The change in format will aid the employers when responding to waivers requested for these areas, and more clearly indicate to the Commission the availability of appropriately certified educators and the rationale for not hiring these individuals.
8. The new section 8 now indicates that the employer does not need to list the qualifications of an individual who has already been granted a waiver. This removes redundant information previously submitted by the employer. §80122(d)
9. The specific concern found in section 5A has been removed from the form. The information regarding the negative effects of denying the waiver request is answered by responses to the other sections making this redundant.

10. The proposed sections 9 through 12 replace the 1995 sections 8 through 10.
  - a. The items found in the current section 8 are not well related and will be divided into sections 9 and 10. This has also been re-formatted to add clarity and ease when employers respond. §80122(g)
  - b. To add clarity, the proposed section 11, formerly section 9, now includes the definition of "geographically isolated", as referenced in Title 5, §80523(a)(3), and specifies some of the methods the employer might implement to assist their educators in completing credential requirements. §80122(d)(h)(2)
  - c. The former section 10, now proposed section 12, contains more detailed information, including a list of possible steps taken by the individual to meet his or her commitment towards certification. This will assist employers in giving complete information. §80124 and §80122(g)
11. The proposed information, from §80122(j), to be listed on the Public Notice has been included in the proposed section 13, which is section 11 on the 1995 form.
12. Section 13 has been re-numbered section 15. The statement regarding AB 1612, discussed earlier, has been added.

In addition to the above changes, numerous items found in the 1995 form have been rearranged on the 1998 form to add clarity and ease for both the employers when completing the form and Commission members when reviewing it.

### **Documents Relied Upon in Preparing Regulations**

Assembly Bill 1612 (Alby), Chaptered September 30, 1997 (Chapter 589).

### **Documents Incorporated by Reference**

Variable Term Waiver Request (form WV1 1/98)

### **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 March 4, 1998.

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, attention Executive Office, at 1812 9th Street, Sacramento, CA 95814-7000, so 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 the Executive Director's office 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 fifty copies to be distributed to the Commissioners and interested members of the public. 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 and Further Information**

Inquiries concerning the proposed action may be directed to Mark McLean, at (916)3237500. 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 is a copy of the proposed action written in plain English, at the eighth grade level. In addition, all the information on which this proposal is based is available for inspection and copying.

## **Attachments**

Commission Use Only

**VARIABLE TERM WAIVER REQUEST**

Requests must be prepared by the employing agency, not the applicant, and must be typewritten or computer generated. All materials must be clear enough to photocopy. Please see the instructions for more information.

|  |                             |  |
|--|-----------------------------|--|
| <b>1. EMPLOYING AGENCY</b><br>(include mailing address)<br><br><input type="checkbox"/> NPS/NPA (list county code _____) | County/District<br>CDS Code | Contact Person<br><br>Telephone #:<br><br>FAX #: |
|--|-----------------------------|--|

**2. APPLICANT FOR THE WAIVER**

Social Security Number    --   --

If fingerprint clearance is not on file at CTC, include an application for a Certificate of Clearance. \_\_\_\_  
 Review by the Division of Professional Practices, if needed, will be concluded before a waiver approval letter will be issued.

Full Legal Name \_\_\_\_\_

Former Name(s) \_\_\_\_\_ Birth date \_\_\_\_\_

Applicant's Mailing Address \_\_\_\_\_  
 \_\_\_\_\_

California Credential or Permit Held (if any) \_\_\_\_\_

Assignment \_\_\_\_\_  
*[Specific position and grade level (e.g. chemistry teacher, grades 11-12), not location]*  
 For bilingual assignment, list LANGUAGE: \_\_\_\_\_

Credential Goal \_\_\_\_\_  
*(Specific title and subject area of the credential that authorizes the assignment. Note that the subject must be one which is available under current regulations.)*

**3. EDUCATION CODE OR TITLE 5 SECTION TO BE WAIVED: EC §44830(a)**

*"A governing board of a school district shall employ for positions requiring certification qualifications, only person who possess the qualifications therefor prescribed by law..."*

Specific section(s) covering the assignment: \_\_\_\_\_  
*(See instructions for examples)*

|                                  |
|----------------------------------|
| ____/____/____ to ____/____/____ |
|----------------------------------|

**4. EFFECTIVE DATES**

Waivers are dated effective the beginning date of service. If the waiver request is for longer than one year, provide a compelling reason why it should extend beyond the end of the school term or year. If this request is submitted after the deadline for the third meeting following the beginning date of service, you MUST attach an explanation of the extenuating circumstances that caused the delay.

|   |
|---|
| Commission Use Only/Bar Coded Label<br><br><br><br><br><br><br><br><br><br><div style="text-align: right;">Form WV1 1/98--Page 1 of 4</div> |
|---|

5. **Is the position in a statewide shortage area?**

- Statewide shortage area: special education including resource setting, speech clinician, teacher of LEP students, teacher of math or science, reading specialist, driver education and training, library media services and multiple subjects.
- NOT a statewide shortage area: administration, counseling, school psychology, most secondary teaching areas--complete number 7 below.

6. **What have you done this year to locate and recruit individuals to fill this position?** Please attach copies of announcements, advertisements, etc. if this is in a *non-shortage* area. No copies are necessary if this is a recognized shortage area.

- |  |  |
|--|--|
| <input type="checkbox"/> Distributed job announcements     | <input type="checkbox"/> Attended job fairs in California    |
| <input type="checkbox"/> Contacted IHE placement centers   | <input type="checkbox"/> Attended recruitment out of state   |
| <input type="checkbox"/> Advertised in local newspapers    | <input type="checkbox"/> Advertised in professional journals |
| <input type="checkbox"/> Advertised in national newspapers | <input type="checkbox"/> Other _____                         |

This is a subsequent waiver in a recognized shortage area. We have given support and assistance to this individual to develop his or her skills in lieu of recruiting.

7. **If this position is NOT in a statewide shortage area:**

**A. What is the SPECIFIC employment criteria for the position?** What special skills and knowledge are needed to successfully perform in this position? These should also be described in your recruitment advertisements and announcements.

**B. Provide detailed information about the results of your recruitment efforts.** Be sure to answer each of the following questions:

How many individuals applied for the position? \_\_\_\_\_

How many of those held the appropriate credential? \_\_\_\_\_

How many were interviewed? \_\_\_\_\_

What were the results of those interviews?

8. **If this is an INITIAL waiver request for this individual in this assignment, what makes the applicant the best candidate?** Include detailed information about the individual's professional preparation and expertise in the subject/area requested and attach appropriate documentation including transcripts, examination score reports, and verifications of experience.

**9. Requirements and Target Completion Dates for Reaching Credential Goal**

List the requirements that the applicant must complete to be eligible for the document named above as the credential goal and a target date by which he or she plans to complete those requirements. If the applicant must complete an entire program, just name the program (e.g., Resource Specialist Program); if he or she has completed some requirements for the credential, list the specific requirements which still must be completed (e.g., three years of experience for Resource Specialist Certificate).

| PROGRAM, COURSE, EXAMINATION, EXPERIENCE | TARGET COMPLETION DATE |
|--|------------------------|
|  |                        |
|  |                        |
|  |                        |
|  |                        |

**10. List the name and position of the person assigned** to provide support and assistance to the applicant during the term of this waiver. By assigning this individual, the employing agency makes a commitment to support and assist the applicant, as feasible, in completing the requirement(s) listed above.

Name \_\_\_\_\_ Position \_\_\_\_\_

**11. Is this employing agency geographically isolated?** Would the applicant have to travel more than 1-1/2 hours one way to attend an institution with an approved program for the credential identified as the credential goal?

Yes  No  Not applicable (program completion is not a requirement)  
 If yes, what have you considered to assist the applicant to attain his or her credential goal?

- District internship  Extension classes
- Correspondence or distance learning programs
- Commission approved Plan to Develop Fully Qualified Educators
- Other \_\_\_\_\_

**12. Subsequent Waivers**

If this applicant has previously been issued a waiver for this assignment, he or she made a commitment to make progress toward the credential goal. What has the applicant done?

- Performed satisfactorily in the position--**enclosed is written confirmation from his or her supervisor** (THIS IS REQUIRED FOR ALL SUBSEQUENT WAIVER REQUESTS).
- Enrolled in an appropriate professional preparation program--**enclosed is verification from the college or university** (for example: form CL469).
- Completed appropriate course work--**enclosed are transcripts or grade cards and verification from the college or university** (for example: form CL469).
- Took CBEST and made progress toward passing it--**enclosed is the examination score report showing all sections taken**. If CBEST was not passed, describe the efforts the applicant made toward remediation, including classes taken or in-service training or tutoring received.
- Completed training under the employing agency's Commission-approved Plan to Develop Fully Qualified Educators--**enclosed is verification of the staff development the applicant attended**.
- Received support and assistance from the employing agency--**enclosed is verification of the staff development or in-service training the applicant attended**.
- Other (describe)

**13. Public Notice -- check the box that applies**

Public School District: Attached is a copy of the agenda item presented to the governing board of the district in a public meeting showing the name of the applicant, the specific assignment including subject and grade level, and the fact that employment will be on the basis of a credential waiver. With the signature of the Superintendent or his or her designee in item #15 below, the person signing verifies that the item was acted upon favorably by the board.

County Office of Education, State Agency, or Nonpublic, Nonsectarian School or Agency: Attached is a dated copy of the notice that was posted at least 72 hours before the position was filled showing the name of the applicant, the specific assignment including subject and grade level, and the fact that employment will be on the basis of a credential waiver. With the signature of the Superintendent or Administrator or his or her designee in item #15 below, the person signing verifies that there were no objections to this waiver request.

**14. Applicant's Certification**

I understand that in order to receive a subsequent waiver for this assignment I must pursue the completion of requirements to obtain full certification in the subject or area covered by this waiver request as specified in #9 above.

\_\_\_\_\_  
*Signature of Applicant* *Date*  
*(Sign full legal name as listed in #2 above)*

**15. Employing Agency Certification**

The person for whom this waiver is requested will not be employed until he or she has been cleared by the Department of Justice under the provisions of Education Code Section 44332.6 and Section 44830.1 (AB1612). The employer acknowledges that the Commission's final approval of this individual's waiver will be determined by a fitness review covering, in part, criminal activity, including certain in-state and/or out-of-state convictions.

If this waiver request is for service to special education children, the Special Education Local Planning Area (SELPA) has been notified of our intent to request this waiver.

I certify under penalty of perjury that the information provided in this report is accurate and complete.

District/County Superintendent, Personnel Administrator, NPS/NPA Administrator, or Designee:

Signature \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Use additional sheets as necessary to provide complete information about any section of this waiver request. This form may be duplicated or may be reproduced on computer as long as the order of the information remains the same and page 1 information remains on page 1.



State of California  
**CALIFORNIA COMMISSION ON TEACHER CREDENTIALING**  
 Box 944270 (1812 9th Street)  
 Sacramento, CA 94244-2700  
 (916) 445-7254

Commission Use Only

Waiver requests must be typewritten. All materials submitted must be of sufficient clarity to make clear copies when sent to the printer. Instruction sheet enclosed for more instruction.

## VARIABLE TERM WAIVER REQUEST

The Commission reviews requests for waivers that have expressly to do with educator preparation and credentialing, and with the ability of employers to employ or assign persons who are not appropriately credentialed for their assignment. All other waivers remain under the legal authority of the State Board of Education or Superintendent of Public Instruction, who may not issue credential waivers on or after July 1, 1994.

Requests for Variable Term Waivers may be submitted by employing agencies, including school districts, county offices of education, and nonpublic, nonsectarian schools or agencies, and by postsecondary institutions and individual applicants, to solve a temporary certification or assignment problem, when the employing agency finds there is an insufficient number of certificated persons who meet the specified employment criteria for a position, or for the purposes of educational reform, or other compelling reasons. The Commission may grant a waiver upon its finding that professional preparation equivalent to that prescribed under the provision or provisions to be waived will be completed by the applicant affected. Variable term waivers may be requested for any length of time depending on the circumstances; most waivers are issued for one year or less.

If the Legal and Professional Standards Division of the Commission must conduct a fitness review for an applicant for a waiver, his or her waiver may be reviewed by the Commission, although no approval letter will be issued until the review has been concluded.

|  |                             |  |
|--|-----------------------------|--|
| <b>1. Employing Agency</b><br>(include mailing address)<br><br><input type="checkbox"/> NPS/NPA ( list county code _____ ) | County/District<br>CDS Code | Contact Person<br><br><br>Telephone Number |
|--|-----------------------------|--|

### 2. Applicant for the Waiver

Full Legal Name \_\_\_\_\_

Former Name(s) \_\_\_\_\_ Birth date \_\_\_\_\_

Social Security Number \_\_\_\_\_

Applicant's Mailing Address \_\_\_\_\_

\_\_\_\_\_

California Credential or Permit Held (if any) \_\_\_\_\_

Assignment \_\_\_\_\_

Fingerprint Clearance on file at CTC

Application for Certificate of Clearance Included

**3. Education Code or Title 5 Section to be Waived: EC §44830(a)**

"A governing board of a school district shall employ for positions requiring certification qualifications, only persons who possess the qualifications therefor prescribed by law..."

Applicant's Credential Goal: \_\_\_\_\_

*(Title of the credential which authorizes the service needed)*

Specific section(s) covering requirements the applicant must meet to reach his or her Credential Goal: \_\_\_\_\_

*(See Section IV of the Waiver Guidelines for examples)*

Brief Description of Section(s):

**4. Reason for Waiver**

Summarize the reason the waiver is being requested, including, but not limited to, the specific employment criteria for the position that must be filled, a description of your efforts to locate and recruit individuals who hold the appropriate credential or who can be assigned under one of the available assignment options (i.e.: job announcements, IHE placement centers, newspaper, etc.), and a description of your efforts to establish alternative training options such as internships.

**5. Proposed Solution**

A. Describe how the requested waiver will remedy the situation, including any negative effects that are likely to occur if the waiver is not granted.

B. Explain what makes the applicant the best candidate for the position. Include detailed information on the individual's professional preparation and expertise in the subject/area requested and include appropriate documentation such as transcripts, examination score reports, and verifications of experience.

**6. Special Education Assignment**

This waiver request is for service to special education children. The Special Education Local Planning Area (SELPA) has been notified of our intent to request this waiver.

**7. Effective Dates of the Waiver**

|                                  |
|----------------------------------|
| ____/____/____ to ____/____/____ |
|----------------------------------|

Waivers should be dated effective the beginning date of service; not prior to actual service. If the waiver request is for longer than one year, provide a compelling reason why it should extend beyond the end of the school term or year.

**8. Requests for Additional Time to Complete Requirements**

A. List the requirements that the applicant must complete to be eligible for the document named above as his or her credential goal and a target date by which he or she plans to complete those requirements. If the applicant must complete an entire program, just name the program (e.g., Resource Specialist Program); if he or she has completed some requirements for the credential, list the specific requirement which still must be completed (e.g., three years of experience for Resource Specialist Credential).

B. List the name and position of the person assigned to provide support and assistance during the term of the waiver. By assigning this individual, the employing agency makes a commitment to support and assist the applicant, as feasible, in completing the requirement(s).

Name \_\_\_\_\_ Position \_\_\_\_\_

**9. Requests from Geographically Isolated Regions**

Plan to Develop Fully Qualified Educators attached.

Plan previously submitted to CTC.

If the plan is not attached or has not previously been submitted, write a brief explanation as to why such a plan is not feasible.

**10. Requests for Subsequent Waivers**

This applicant has previously been issued a waiver for this assignment. Below is a description of the progress that he or she has made toward completion of the requirements for the credential that authorizes the service covered by this waiver request. Include official transcripts or grade reports, examination score reports, verifications of appropriate course work from a college or university with a Commission-approved program, and other documentation, as appropriate.

11. **Public Notice--check the box that applies**

Public School District: Attached is a copy of the agenda item presented to the governing board of the district in public meeting. With the signature of the Superintendent or his or her designee in item #13 below, the person signing verifies that the item was acted upon favorably by the board.

County Office of Education, State Agency, or Nonpublic, Nonsectarian School or Agency: Attached is a dated copy of the notice that was posted at least 72 hours before the position was filled. With the signature of the Superintendent or Administrator or his or her designee in item #13 below, the person signing verifies that there were no objections to the waiver request.

12. **Applicant's Certification**

I understand that in order to receive a subsequent waiver for this assignment I must pursue the completion of requirements to obtain full certification in the subject or area covered by this waiver request as specified in #7 above.

\_\_\_\_\_  
*Signature of Applicant* *Date*  
(Sign full legal name as listed in #2 above)

13. **Employing Agency Certification**

I certify under penalty of perjury that the information provided in this report is accurate and complete.

District/County Superintendent, Personnel Administrator, NPS/NPA Administrator, or Designee:

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

14. **OPTIONAL County Certification**

The County Office of Education has reviewed this waiver request on behalf of the school district in our jurisdiction and finds it is accurate and complete. This optional review allows the waiver request to be submitted in time to be reviewed within *three* Commission meetings of the beginning date of service, rather than in *two* Commission meetings as is required when the request comes directly from the district. If there are questions, please contact:

Name of Person to Contact \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Use additional sheets as necessary to provide complete information about any section of this waiver request form. This form may be duplicated or may be reproduced on computer as long as the printed image is clear enough to photocopy and the order of the information remains the same.

# Division VIII of Title 5 of the California Code of Regulations

## Proposed Amendments to Sections 80122 and 80125 Pertaining to Variable Term Waivers

### PROPOSED REGULATIONS

#### **§80122. Requirements for Variable Term Waivers.**

The application for a waiver document 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, the application may instead identify the plan under which the reform 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) Reason for Waiver. The application shall summarize the reason the waiver is being requested, including, 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. The application shall describe how the waiver 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. The application shall identify, by name, date of birth and Social Security number, the applicant for whom the waiver is 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.
- (i) Effective Date and Proposed Duration. The application shall specify the 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. The agenda item must state the name of the applicant, the assignment in which the applicant will be employed including the subject(s) and grade level(s) that he or she will be teaching and that the applicant will be employed on the basis of a credential waiver.
  - (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. The notice must state the name of the applicant, the assignment in which the applicant will be employed including the subject(s) and grade level(s) that he or she will be teaching and

that the applicant will be employed on the basis of a credential waiver.

- (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.
- (l) Fee(s). Effective July 1, 1996, the waiver request shall include payment of the fee(s) required by Section 80487. Waiver requests for individuals who hold a valid non-emergency teaching credential based on possession of a baccalaureate degree from a regionally accredited institution and completion of a professional preparation program that includes student teaching shall include payment of the fee(s) required by all sub-sections of Section 80487, as appropriate, except 80487(a)(1).

NOTE: Authority Cited: Section 44225(q), Education Code. Reference: Section 44225, subdivisions (g) and (m) and 44235, Education Code.

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

- (a) Requests for variable term waivers must be submitted on a the form Variable Term Waiver Request (form WV1 1/98) provided by the Commission (~~form WV1 8/95~~) 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 waiver requests for individuals who require a Commission fitness review be submitted in time to be reviewed by the Appeals and Waivers Committee at their first meeting following the 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.
- (b) (c) ~~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, 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 may be submitted to the Commission in time to be reviewed by the Appeals and Waivers Committee by 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 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.
  - (3) 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.
- ~~(e)~~(d) 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. 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 for the appropriate credential or permit.
- (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.

- (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.
  - (3) Waiver requests 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. 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)~~(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 (b)(2) and (c)(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, subdivision (m), Education Code.

**CALIFORNIA COMMISSION ON TEACHER CREDENTIALING**

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FAX (916) 327-3166



Attn.: Sam Swofford, Ed.D.  
Executive Director

Title: Variable Term Waivers  
Section Nos.: 80122 & 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, attention Executive Office, at the above address by 5:00 pm on March 4, 1998, in order that the material can be presented at the March 5, 1998 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 side 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: \_\_\_\_\_

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