

CALIFORNIA COMMISSION ON TEACHER CREDENTIALING

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OFFICE OF THE EXECUTIVE DIRECTOR

99-9906

DATE: February 23, 1999

TO: District and County Superintendents of Schools, Directors of Charter Schools, and Directors of Non-Public Schools and Agencies

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

SUBJECT: Approval of Additions to Title 5 Sections 80122 and 80125 Concerning Variable Term Waivers and Revised Waiver Submission Chart for 1999

The proposed additions to California Code of Regulations, Title 5, Sections 80122 and 80125 concerning variable term waivers have been approved by the Office of Administrative Law and filed with the Secretary of State.

The regulations were developed in response to concerns about the sufficiency of information provided to the public when the employment of individuals on credential waivers is considered and the personal fitness of individuals employed to work with students prior to completion of a fingerprint review.

The new regulations will become effective on June 1, 1999. All waiver requests received at the Commission office beginning on this date must comply with the new regulations.

Public Notice Requirement

Regulations governing credential waivers require that a notice of intent to employ an individual on the basis of a waiver be made public and that a copy of the notice be submitted with the waiver request. The amendments to sub-section 80122(j) specify that the public notice for waiver requests must include the following information:

- 1) the name of the candidate for whom the waiver is being requested,
- 2) the specific assignment in which the candidate will be employed including the subject(s) and grade level(s) the candidate will be teaching, and
- 3) a statement that the candidate will be employed on the basis of a credential waiver.

The Commission believes it is important for the public notice statement to include the above information so that parents, school board members, and any other interested parties are made aware of the credential status of educators working with children. Such information gives the public an opportunity to present any concerns they may have about a 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 the required credential.

If a waiver request is submitted by a public school district under the revised regulations, it must include a copy of the agenda report presented to the governing board of the district. The report must be presented at a public meeting for action and must include the information described above for each individual for whom a waiver will be requested. The waiver request must include a signed statement from the superintendent, or his or her designee that the item was acted upon favorably by the governing board.

If a waiver request is 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 which includes the information described above and which was posted in public view at least 72 hours before the position was filled. The waiver request must include a signed statement from the superintendent, administrator, or his or her designee that there were no objections to the waiver request. If objections were received, the nature of

the objection and the name of the person or organization lodging the objection must be sent with the waiver application.

Waivers Requiring Character and Identification Clearance

Regulations require that waiver requests for individuals who do not already have fingerprint clearance on file with the Commission include two fingerprint cards, a completed Application for Character and Identification Clearance (form 41-CIC) and appropriate fees for processing of the fingerprint cards. The amendments to Title 5 Section 80125 require that waiver requests for individuals who have not begun the Commission's fingerprint clearance process be submitted in time to be reviewed by the Appeals and Waivers Committee at their first meeting following the beginning date of service listed on the waiver request. Waiver requests submitted after this deadline for individuals who have not begun the fingerprint clearance process will be recommended for denial by staff.

Waiver requests for individuals who have already begun the fingerprint clearance process required by the Commission by previously submitting fingerprints through the livescan process or applying for a Certificate of Clearance or any type of certification through the Commission will not be restricted to the one meeting deadline. Such requests must be submitted in time to be considered at the third Commission meeting following the beginning date of employment. **Please note that initiation of the California Department of Justice fingerprint process required for employment does not satisfy the Commission's fingerprint review requirement.**

The deadline for submission of waivers for individuals who have already completed the professional fitness process continues to be the third meeting following the beginning date of employment.

Variable Term Waiver Request form (WV1)

Since the Variable Term Waiver Request form (WV1) is incorporated by reference in section 80125(a) and a revised WV1 (1/98) has been referenced in the regulations, a copy of that form is also included with this correspondence. The form has been revised to include clarifying information to assist both employers and the Commission in the processing of waiver requests. Employers should begin using this form immediately.

The major change to the Waiver Request form is directed to the cases that require an AB 1612 Department of Justice employment check and a fitness review by the Commission. This change is to ensure that the employer requesting the waiver fully understands that even though the AB 1612 fingerprint clearance for employment has been completed for the applicant, the Commission's fitness review must also be completed. To ensure this, the employer will be required to sign the following affirmation which is included in section 15 of the waiver request form:

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.

Section 5 of the form has been revised to add multiple subject teaching to the list of recognized statewide shortage areas. Only the credential areas listed in this section are recognized by the Commission as statewide shortages. If the waiver request is for a credential area which is not on this list it is necessary to provide in section 7 complete information regarding the skills required for the position and the recruitment efforts made.

Section 7 has been revised to clarify the specific information the Commission needs regarding recruitment efforts pursued when a waiver in a non-shortage area is requested. It is particularly important to specify the number of appropriately credentialed candidates who applied for the position, if any, and why such an applicant(s) was not selected.

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 completing the form and Commission members reviewing it.

Revised Waiver Submission Chart for 1999

At its January 1999 meeting the Commission revised its meeting schedule for the year. As a result of this change in the schedule and other factors related to the processing of waivers, it became necessary to revise the timeline for submission of waiver requests. Enclosed is a revised Waiver Submission Chart which shows the **new Commission meeting dates and deadlines**

for submitting waivers. Please review these revisions carefully and discard any copies of previous charts.

Questions

If you have questions about the additions to the regulations please contact the Commission's Waiver Line at (916) 323-7136 or write to e-mail at: (waivers@ctc.ca.gov).

CALIFORNIA COMMISSION ON TEACHER CREDENTIALING
DIVISION VIII OF TITLE 5 OF THE CALIFORNIA CODE OF
REGULATIONS

**AMENDMENTS TO SECTIONS 80122 AND 80125 PERTAINING TO VARIABLE
TERM WAIVERS**

§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 the form Variable Term Waiver Request (form WV1 1/98) which is incorporated by reference and provided by the Commission 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.
- (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 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.
- (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.
- (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, subdivision (m), Education Code.

REVISED WAIVER SUBMISSION CHART FOR 1999

Effective with all waiver requests received at the Commission office beginning on June 1, 1999, waivers for individuals who have not begun the Commission's required **fingerprint review** process must be submitted no later than the deadline for the **first** Commission meeting following the beginning date of service.

Waiver requests for individuals who have begun or completed the Commission's required fingerprint review process must be submitted to the Commission no later than the deadline for the **third** Commission meeting following the beginning date of service. If circumstances prevent an employing agency from submitting a waiver request within the three-meeting deadline, a waiver request may be submitted by the fourth meeting. **A full explanation of the extenuating circumstances must accompany a waiver request submitted for the fourth meeting deadline.**

The chart below correlates the dates for submitting a waiver with the beginning dates of service and the scheduled Commission meeting.

All meetings are held at the Commission Office at 1900 Capitol Avenue, Sacramento. Phone (916) 445-0234.

Three Meeting Deadline for Individuals Who Have Begun or Completed the Commission's Fingerprint Review Process

BEGINNING DATE OF SERVICE	Submission Deadline	MEETING DATES
November 14, 1998 - December 17, 1998	February 11, 1999	March 3-4, 1999
December 18, 1998 - January 14, 1999	March 23, 1999	April 14-15, 1999
January 15, 1999 - February 11, 1999	April 14, 1999	May 5-6, 1999
February 12, 1999 - March 23, 1999	May 12, 1999	June 2-3, 1999
March 24, 1999 - April 14, 1999	June 16, 1999	July 7-8, 1999
		No Meeting in August
April 15, 1999 - May 12, 1999	August 11, 1999	September 1-2, 1999
May 13, 1999 - June 16, 1999	September 14, 1999	October 6-7, 1999
June 17, 1999 - August 11, 1999	October 8, 1999	November 3-4, 1999
August 12, 1999 - September 14, 1999	November 8, 1999	December 1-2, 1999

State of California
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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.

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

2. APPLICANT FOR THE WAIVER

			--			--			
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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)

4. EFFECTIVE DATES

			/				/		to				/			
--	--	--	---	--	--	--	---	--	----	--	--	--	---	--	--	--

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.

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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 subject teaching.

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? If credentialed candidates applied for this position please explain why those individuals were not selected.

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 verification of experience.

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, Charter Schools 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

(Sign full legal name as listed in #2 above)

Date

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.