

Division VIII of Title 5 of the California Code of Regulations

Proposed Addition and Amendments to Title 5 of the California Code of Regulations Pertaining to Teaching Permit for Statutory Leave (TPSL)

The Commission on Teacher Credentialing (Commission) proposes to take the regulatory action described below after considering all comments, objections, and recommendations regarding the proposed action.

Public Hearing

A public hearing on the proposed actions will be held:

June 16, 2016

8:30 a.m.

Commission on Teacher Credentialing

1900 Capitol Avenue

Sacramento, California 95811

Written Comment Period

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by e-mail relevant to the proposed action. The written comment period closes at 5:00 p.m. on June 6, 2016. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 322-0048; write to the Commission on Teacher Credentialing, attn. Erin Skubal, 1900 Capitol Avenue, Sacramento, California 95811; or submit an email at eskubal@ctc.ca.gov.

Any written comments received 15 days prior to the public hearing will be reproduced by the Commission's staff for each member of the Commission as a courtesy to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

Authority and Reference

Education Code section 44225 authorizes the Commission to adopt these proposed regulation amendments. The proposed amendments implement, interpret, and make specific Education Code sections 44225(b), 44225(d), 44225(e), 44225(l), 44252, 44258.9, 44280, 44281, 44282, 44300(i), 44977, 44978, 44984, 47605, 56365 and 56366.

Informative Digest/Policy Statement Overview

Summary of Existing Laws and Regulations

This rulemaking action proposes the following:

- Addition of Title 5 CCR section 80022 to clarify and interpret the provisions of Education Code section 44225 pertaining to permits for service in California's public schools and, to create the new Teaching Permit for Statutory Leave (TPSL) and all associated requirements for issuance; and

- Amend Title 5 of the California Code of Regulations (CCR) section 80025.3 to allow individuals who hold the TPSL, Short-Term Staff Permit, or Provisional Internship Permit to substitute teach on a day-to-day basis based on possession of a Bachelor's degree and satisfaction of the basic skills requirement.

Education Code directs the Commission to create, develop regulations for, and issue permits of varying types to be used for public school service, including emergency and substitute permits. Current law specifies that day-to-day substitute teachers may not serve more than 30 cumulative days for any one teacher of record during the school year (5 CCR sections 80025 and 80025.3), except in special education classrooms, where they may serve no more than 20 cumulative days during a school year for any one teacher (Education Code section 56061(a)), unless they hold a specific teaching authorization in the subject and/or setting of the substitute assignment. This service limitation becomes problematic when Local Education Agencies (LEAs) are tasked with covering assignments where the teacher of record is out of their classroom beyond 20 or 30 days due to a statutory leave situation. The proposed addition of 5 CCR section 80022 will create a new permit that provides LEAs with an additional option for staffing statutory leave assignments that extend beyond the 20 or 30 day service limitation that applies to Emergency 30-Day Substitute Teaching Permits.

Teaching Permit for Statutory Leave (TPSL)

The addition of 5 CCR section 80022 will create the option for LEAs to request a TPSL to be used when a teacher of record is unable to provide services due to a statutory leave, as defined in the proposed regulations in subsection 80022(f)(19). Providing this new option for LEAs will help the Commission meet the statutory requirement set forth in subsections (b) and (d) of Education Code section 44225.

The proposed TPSL would authorize service as the interim teacher of record for the full length of leave for any contracted teacher on a statutory leave as defined in regulations. The TPSL would not be an option to fill teacher vacancies and would be appropriate solely for classrooms where the contracted teacher of record is on a statutory leave requiring an interim teacher of record to serve in their place until their return. Service would be limited to the specific setting indicated in the document's authorization statement. Authorizations could be earned for specific Single Subject areas, Multiple Subjects, or Special Education. Individuals could potentially apply for and be issued more than one authorization on their TPSL, depending on their qualifications and the authorization(s) requested by the LEA.

The proposed regulation for the TPSL includes and specifies the details for all of the following requirements:

1. Bachelor's or higher degree;
2. Basic Skills requirement;
3. Subject Matter requirement;
4. Completion of 45 hours of TPSL preparation based on defined content areas of study as specified in regulations for the first three issuances, and ongoing professional development for all subsequent issuances;

5. Orientation, mentoring, and support provided by the local employing agency; and
6. Transparency and Accountability.

The TPSL provides a new option for staffing statutory leave assignments that extend beyond the 20 or 30 day service limitation that applies to Emergency 30-Day Substitute Teaching Permits. The TPSL is intended to provide LEAs with greater flexibility in staffing schools and creates educational continuity for students by avoiding the process of rotating substitute teachers through such assignments. The preparation required for the TPSL ensures that the individual is academically talented, knowledgeable of the subject, and has the skills to foster a positive, motivating, and equitable learning environment.

The permit could afford employers the opportunity to invest in a pool of individuals with a higher level of preparation to serve in longer statutory leave assignments. The design of the document requires improved preparation beyond that of a substitute permit holder by increasing the individual's knowledge, skills, and abilities in the areas of pedagogy, classroom management, subject matter knowledge, and educational practices across the continuum of learning abilities. Having a better prepared teacher available to cover statutory leave assignments would provide a more consistent and stable learning environment for students whose teacher of record is out on statutory leave.

Day-to-Day Substitute Teaching

5 CCR section 80025.3 currently specifies which Commission-issued permits, besides those that explicitly authorize substitute teaching, authorize day-to-day substitute teaching. Because the proposed regulations in section 80022 for the TPSL specifically authorize service for specified statutory leave assignments only, an individual could not substitute teach in between statutory leave assignments with their TPSL. However, the proposed amendments to section 80025.3 include reference to the TPSL issued pursuant to section 80022 as a Commission-issued permit that would authorize substitute teaching during the valid period of the permit in any district within the county listed on the document.

Additionally, the proposed amendments to section 80025.3 include the reference to sections 80021 and 80021.1 to include the Short-Term Staff Permit (STSP) and Provisional Internship Permit (PIP) as documents that would authorize substitute teaching during the valid period of the permit in any district within the county listed on the document. The regulatory sections for the STSP and PIP were created in 2005, yet section 80025.3 was not amended at that time to add these permits to the list of permits that authorize day-to-day substitute service under this section of regulations. These inclusions are a continuance of the intent of this regulatory section, which is to allow permits whose requirements include a Bachelor's degree and satisfaction of the Basic Skills Requirement (both of which are required for the Emergency 30-Day Substitute teaching Permit) to provide day-to-day substitute teaching services.

Objectives and Anticipated Benefits of the Proposed Regulations

The objectives of the proposed addition and amendments are to clarify and make specific the following as related to the TPSL and permits that authorize service as a day-to-day substitute teacher:

- Provide LEAs with an option for covering statutory leave assignments with a single permit holder beyond the 20 or 30 day substitute assignment limitation;
- Outline requirements for initial issuance and renewal of TPSLs;
- Specify statutory leaves that are authorized by a TPSL;
- Allow day-to-day substitute teaching by individuals who hold a STSP, PIP or TPSL.

The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by providing LEAs with options for covering statutory leave assignments that extend beyond the service limitation of the Emergency 30-Day Substitute Teaching Permit. The proposed regulations will increase the health and safety of individuals serving in statutory leave assignments by ensuring better preparation and support from the employing agency.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The Commission has determined that the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Commission has concluded that 5 CCR section 80025.3 is the only regulation section related to specifying the acceptable permits for substitute service based on possession of a Bachelor's degree and Basic Skills, the proposed addition of 5 CCR section 80022 will be the only regulation section related to the issuance of the Teaching Permit for Statutory Leave, and no other regulations specifically authorize service for statutory leave assignments.

Disclosures Regarding the Proposed Actions

The Commission has made the following initial determinations:

Mandate to local agencies or school districts: None.

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

Cost or savings to any state agency: None.

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

Significant effect on housing costs: None.

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

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

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

Statement of the Results of the Economic Impact Assessment [Govt. Code § 11346.5(a)(10)]: The Commission concludes that it is 1) unlikely that the proposal will create any jobs within the State of California; 2) unlikely that the proposal will eliminate any jobs within the State of California; 3) unlikely that the proposal will create any new businesses within the State of California; 4) unlikely that the proposal will eliminate any existing businesses within the State of California; and 5) unlikely the proposal would cause the expansion of businesses currently doing business within the State of California.

Benefits of the Proposed Action: The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by providing schools with options for covering statutory leave assignments that extend beyond the service limitation of the Emergency 30-Day Substitute Teaching Permit. The proposed regulations will increase the health and safety of individuals serving in statutory leave assignments by ensuring better preparation and support from the employing agency.

The Commission does not anticipate that the proposed regulations will result in an increase in the protection of public health and safety, worker safety, or the environment, the prevention of social inequity, or an increase in openness and transparency in business.

The Commission anticipates that the proposed regulations will result in an increase in openness and transparency in government by requiring an LEA who elects to use the TPSL permit to report data on the assignments of the permit holder to the local county office of education annually as part of the assignment monitoring specified under Education Code section 44258.9. The reporting of this data would allow the public to know when an LEA is placing TPSL holders in statutory leave assignments, and would include the school site, length and setting of the assignments. Such reporting would ensure that the TPSL is appropriately used for statutory leave assignments and not for teacher vacancies.

Effect on small businesses: The proposed regulations will not have a significant adverse economic impact upon business. The proposed regulations apply only to individuals seeking a Teaching Permit for Statutory Leave to serve as an interim teacher of record while the teacher of record is out on a statutory leave in California's public schools and will expand the list of permits that authorize day-to-day substitute teaching.

Consideration of Alternatives

The Commission considered the following alternatives to resolve the issues surrounding statutory leave assignments:

Modification of Existing Short-Term Staff Permit (STSP)

Modifying the existing STSP to allow for easier use, including renewability, when covering statutory teacher leaves is a second solution that was identified. Unlike the PIP, the STSP does not require the employing agency to submit verification of recruitment efforts for a fully credentialed teacher for issuance, but it does require verification that a diligent search was conducted.

Modification of a document that already exists to allow reissuance solely for statutory teacher leave assignments could be done through the regulatory process. However, the data and accountability complications that might arise when tracking the usage of the STSP for actual vacancies versus statutory teacher leave assignments are a consideration. Also, issuance of the STSP requires that a diligent search was conducted by the employer prior to issuance. This is an issue because many statutory teacher leaves are spontaneous in nature and can begin or end with little to no notice.

As well, the STSP does not require any additional preparation such as pedagogy or classroom management. As proposed, the TPSL would require additional targeted preparation to better prepare individuals for longer assignments. Stakeholders did not support this alternative.

Modification of Service Limitation of Substitute Assignments

A second possible solution could be to modify the current 20 or 30 day limitation for serving in a substitute assignment. Modifying the 30-day limitation for general education would require changes to regulations, which the Commission has the authority to do. The 20-day limitation for special education classrooms is set in Education Code and would require legislation to amend.

Substitute limitations could be set to a higher level specifically for statutory teacher leave situations, which would remove the need for rotating substitute teachers through a classroom. Limitations could also be higher for fully credentialed teachers who are teaching outside of their credential area. Currently, such teachers are also limited to the 20 or 30 days even though they have completed a full teacher preparation program in a different subject area or setting.

However, it is important to note that such a modification would require that the Commission seek out a sponsor for a bill to be written and approved by the Legislature, as the 20 day special education setting limitation is specified in the Education Code. As well, this option does not increase the requirements for substitute permit holders who are serving in longer statutory leave assignments. Additionally, these substitutes are not appropriately prepared to serve beyond these set limitations, which are intended to prevent individuals with no training in pedagogy, classroom management, or knowledge of the subject being taught from such long assignments. Stakeholders did not support this alternative.

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission has determined that neither of these alternatives would be more effective in carrying out the purpose for which the action is proposed, would be as effective as and less burdensome to

affected private persons than the proposed actions, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. No alternatives have yet been proposed that will be less burdensome and equally effective.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the public hearing.

Contact Person/Further Information

General or substantive inquiries concerning the proposed action may be directed to Erin Skubal by telephone at (916) 323-9596 or Erin Skubal, Commission on Teacher Credentialing, 1900 Capitol Avenue, Sacramento, CA 95811. General question inquiries may also be directed to Erin Henderson at (916) 327-2969 or at the address mentioned above. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission's website at www.ctc.ca.gov. In addition, all the information on which this proposal is based is available for inspection and copying.

Availability of the Initial Statement of Reasons, Text of Proposed Regulations, Document Incorporated by Reference, and Documents Relied Upon

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. Copies may be obtained by contacting Erin Skubal at the address or telephone number provided above.

Modification of Proposed Action

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

Availability of Final Statement of Reasons

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public hearing. Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Erin Skubal at (916) 323-9596.

Availability of Documents on the Internet

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