

COMMISSION FOR TEACHER PREPARATION AND LICENSING

1020 O STREET

SACRAMENTO, CALIFORNIA 95814

(916) 445-0184

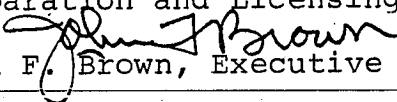


OFFICE OF THE EXECUTIVE SECRETARY

September 7, 1981

81-8205

TO: All Individuals and Groups Interested in the
Activities of the Commission for Teacher
Preparation and Licensing

FROM:  John F. Brown, Executive Secretary

SUBJECT: October 1, 1981 Public Hearing to Review
Title 5 Regulations

The third of five scheduled public hearings to review Title 5
Regulations will be held on October 1, 1981 at the Holiday Inn,
1800 Powell Street, Emeryville, California at 1:30 p.m.

This coded correspondence provides you with a review, conducted by Commission staff, of each regulation to be considered at the October public hearing. This information will enable you to address the staff recommendations, as well as to provide input independent of these recommendations.

This series of five public hearings is being held in accordance with recently enacted legislation (AB 1111) which requires all state agencies to review regulations added to the California Administrative Code prior to July 1, 1980 (Reference: CC80-8129, dated June 10, 1981).

Each regulation is to be analyzed and assessed against five specific standards: Necessity, authority, clarity, consistency and reference (see page 3 for definitions of these standards).

As a result of the review, the Commission will ascertain which of its regulations do or do not meet the five standards. The Commission will then state its intent to retain those regulations that do meet standards, or its intent to amend or repeal those regulations that do not meet standards.

Action to actually amend or repeal any regulation would not be taken without holding a subsequent public hearing for that specific purpose.

The public is invited to participate in the review process and is encouraged to present information, pro or con, orally or in writing, relevant to the regulations under review at the public hearing.

If you wish to make an oral presentation regarding any of the regulations being reviewed, please bring 30 copies of your material for distribution to the Commissioners and staff. If you can provide your statement to the Commission Office 15 days before the public hearing, sufficient copies of the material will be duplicated and distributed for Commission and staff use. We would also appreciate a call to the Commission Office, (916) 445-0184, if you plan to make a presentation in order to schedule time on the agenda for people who wish to address the Commission.

Written statements should be submitted on the attached Review Response Form at least 15 days prior to the public hearing, when that particular regulation is scheduled for review.

Any questions regarding this review should be directed to Mr. Lee Huddy at (916) 445-6772.

Attachments

CRITERIA FOR REVIEW OF TITLE 5 REGULATIONS

Government Code Section 11349 defines the standards as follows:

- (a) "Necessity" means the need for a regulation as demonstrated in the record of the rulemaking proceeding. Section 11342.2 of the Administrative Code states that the purpose of adopting regulations is "...to implement, interpret, make specific or otherwise carry out the provisions of the statute..." and that "...no regulation adopted is valid or effective unless...reasonably necessary to effectuate the purpose of the statute."
- (b) "Authority" means the provision of law which permits or obligates the agency to adopt, amend or repeal a regulation.

- (c) "Clarity" means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.
- (d) "Consistency" means being in harmony with, and not in conflict with or contradictory to, existing laws.
- (e) "Reference" means the statute, court decision or other provisions of law which the agency implements, interprets, or makes specific by adopting, amending or repealing a regulation.

REVIEW RESPONSE FORM - REGULATIONS TO BE REVIEWED
 AT THE PUBLIC HEARING ON OCTOBER 1, 1981

So that the Commission for Teacher Preparation and Licensing can more clearly estimate the general field response to the attached Title 5 Regulations which are scheduled for review, please return this form to the Commission Office at the above address by September 25, 1981.

1. The following Title 5 Regulations should be amended:
 (Include the following information: Section number of the regulation; brief description of the recommended amendment; statement of facts to support your recommendation; and the specific standards (necessity, authority, clarity, consistency and reference) that the regulation does not meet.)

2. The following Title 5 Regulations should be repealed:
 (Include the following information: Section number of the regulation; statement of facts to support your recommendation; and the specific standards (necessity, authority, clarity, consistency and reference) that the regulation does not meet.)

2. (continued)

3. Personal Opinion of the undersigned only.

Organization opinion (please specify) _____

4. I shall be at the Public Hearing, place my name on the list for making a presentation to the Commission.

No, I will not make a presentation to the Commission at the Public Hearing.

Name (Print or Type) Date

Title

Representing

COMMISSION FOR TEACHER PREPARATION AND LICENSING

1020 O STREET
SACRAMENTO, CALIFORNIA 95814

(916) 445-0184

OFFICE OF THE EXECUTIVE SECRETARY



September 1, 1981

TO: Executive Committee, Commission for Teacher Preparation and Licensing

FROM: John F. Brown, Executive Secretary

SUBJECT: Review of Title 5 Regulations Scheduled for Public Hearing at the OCTOBER Commission Meeting

Attached, you will find a copy of the staff review of regulations which are scheduled for public hearing in OCTOBER.

This material will appear in the OCTOBER agenda in this form and will be distributed to the field for reaction. As before, I ask that you carefully review this material. Any concerns which you feel require attention at the OCTOBER public hearing should be brought to the attention of Mr. Lee Huddy by mail or telephone at (916) 445-6772.

Attachment

POTENTIAL DISCREPANCIES BETWEEN TITLE 5 REGULATIONS AND THE FIVE STATUTORY STANDARDS

Action Indicated By Review Rationale	Staff Recommendation (If Different From Action Indicated By Review)
<p>Title 5 Regulation</p> <p>80300. Definitions. As used in this chapter: (a) "Accusation" or "Statement of Issues" means a pleading, pursuant to Section 11503 or 11504 of the Government Code which initiates an administrative adjudicatory hearing to determine whether a credential shall be denied, suspended, or revoked. (b) "Applicant" means any person who has made application for a credential to be issued by the Commission. (c) "Adverse action" means any committee action other than a determination that no disciplinary action should be taken, with none justified. (d) "Commission" means the Commission for Teacher Preparation and Licensing. "Committee" means the Committee of Credentials. (e) "Credential" means any credential, life diploma, certificate, or document issued by or held under the jurisdiction of the Commission for Teacher Preparation and Licensing which authorizes the holder to perform services for which certification qualifications are required. (f) "Investigation" means the process of collection and evaluation of facts and evidence as a basis for determination of the truth or falsity of allegations of misconduct or unfitness of a person to receive or to hold a credential. (g) "Licensee" means any holder of a valid credential or life diploma. (h) "Respondent" means any person with respect to whom an investigation has been initiated or against whom an accusation or statement of issues has been filed.</p> <p>NOTE: Authority cited: Sections 44225, 44242, 44243, Education Code. Reference: Section 44244, Education Code.</p>	<p>Repeal</p> <p>Not necessary. Definitions are necessary only where words are used in a special sense. All words defined in this section are in common use in the Administrative Procedures Act which governs CIPPL proceedings.</p>
<p>80301. Authority of the Committee of Credentials. (a) Subject to the standards provided in this chapter, the Committee of Credentials has authority to: (1) Receive allegations of misconduct or unfitness filed against licensees and applicants for licenses issued by, or held under the jurisdiction of the Commission for any cause specified in Education Code Sections 44420, 44421, 44345, or any other provision of law or these regulations for which such a credential may be denied, revoked, or suspended by the Commission; (2) Investigate such allegations; using the investigative facilities of the Department of Justice or other appropriate facilities and personnel; (3) Determine whether probable cause exists for the denial, suspension or revocation of the credential, and if such cause does exist, to initiate an adjudicatory hearing by the filing of an accusation or statement of issues; (4) To adopt and to amend procedures and forms for the expeditious management of the Committee's business; (5) To report its actions and decisions to the Commission with its recommendations with respect thereto.</p> <p>NOTE: Authority cited: Sections 44225, 44242, 44243, Education Code. Reference: Section 44244, Education Code.</p>	<p>Repeal</p> <p>Not necessary. This section has been written into new Education Code Section 44242.5, Ch 956/80 (Hart AB2811) and is now redundant. EC Section 44243 authorizes the Commission to make policy governing the operation of the Committee of Credentials, and any necessary internal procedures may be placed in the policy file.</p>

STAFF REVIEW

POTENTIAL DISCREPANCIES BETWEEN TITLE 5 REGULATIONS AND THE FIVE STATUTORY STANDARDS

Title 5 Regulation	Action Indicated By Review Rationale	Staff Recommendation (If Different From Action Indicated By Review)
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80302. Meetings.
 (a) The Committee shall meet at such times and places as it considers necessary to perform its duties under this chapter.
 (b) The Committee shall, no later than the last meeting of the year, adopt a calendar indicating the dates, times, and places of meetings for the following year, subject to the approval of the Commission.
 (c) For good cause, the Chairperson of the Commission may approve a Committee meeting at some other date, time, or place than that adopted in Subsection (b).
 NOTE: Authority cited: Sections 44225, 44242, 44243, Education Code. Reference: Section 44244, Education Code.

Repeal
 Not necessary. This section deals with matters of internal procedure which the Commission may place in its policy file, and is unnecessary to be in regulation.

80303. Quorum.
 A majority of the members shall constitute a quorum for the transaction of business.
 NOTE: Authority cited: Sections 44225, 44242, 44243, Education Code. Reference: Section 44244, Education Code.

Repeal
 Same rationale as specified for Section 80302

80304. Calendar.
 All matters to be presented for consideration by the Committee at a regular meeting shall be placed on the Committee's calendar without undue delay.
 NOTE: Authority cited: Sections 44225, 44242, 44243, Education Code. Reference: Section 44244, Education Code.

Repeal
 Same rationale as specified for Section 80302.

80305. Continuance.
 All matters appearing on the calendar that are not disposed of shall appear on the next calendar as items of unfinished business.
 NOTE: Authority cited: Sections 44225, 44242, 44243, Education Code. Reference: Section 44244, Education Code.

Repeal
 Same Rationale as specified for Section 80302.

Staff Recommendation
(If Different From
Action Indicated By
Review)

Action Indicated By Review
Rationale

Title 5
Regulation

Amend
Necessity. This section deals with the valuable procedural rights of licensees, and should be read with Section 80318.1, Reconsideration of Committee Action. Both sections set necessary minimum standards which guarantee orderly consideration of matters before the Committee of Credentials. This section is related to, and should be made a part of Section 80318.1, since both relate to the same subject.
Use EC 44225 as authority cited, and EC 44242.5 as reference.

Amend
Clarity. The present text of 80307 is poorly organized into an "(a) (1) (2) (3) (4)" scheme. It should be re-organized into a simple "(1), (2), (3), (4), (5)" scheme.
Use EC 44225 as authority cited, and EC 44242.5 as reference.

80306. Action and Reconsideration.

In any meeting of the Committee, a vote of four concurring members is required to make any action effective whether that action is to grant or to deny any request or other matter properly before the Committee. Where a matter requires such action and a motion to take such action fails for lack of four concurring votes, the matter shall not be dropped from the calendar. Upon the adoption of a motion to reconsider made by any member of the Committee at the same, or any succeeding meeting, the matter shall be reconsidered. If a motion to reconsider is not adopted within three months, the matter shall be dropped from the calendar. A member of the Committee may participate in the reconsideration of a matter even though he or she was not present during the original consideration of the matter if the interested parties agree or if the member has reviewed a transcript of the proceedings and/or other documents and evidentiary materials before the Committee.

NOTE: Authority cited: Sections 44225, 44242, 44243, Education Code. Reference: Section 44244, Education Code.

80307. Precedence of Matters on the Committee's Calendar.

(a) Any matter involving allegations of child abuse or misconduct or unfit-ness which poses a hazard to students or other employees made against persons who are presently employed in positions requiring certification qualifications shall be set for investigation and consideration at the earliest possible time and shall take precedence over all other cases except older cases of the same character and matters to which special precedence may be given by law. All other matters shall be placed upon the calendar in the following order of precedence:
(1) Matters involving persons presently or prospectively employed in positions for which certification qualifications are required.

(2) Matters involving persons who have been suspended from, or placed on compulsory leave of absence from positions requiring certification qualification pursuant to Education Code Section 44940 and pending disposition of criminal charges.

(3) Matters involving persons not presently or prospectively employed in positions requiring certification qualifications.

(4) Matters involving persons absent from the State, or, whose whereabouts are unknown.

(5) All other matters, including matters on judicial appeal.

NOTE: Authority cited: Sections 44225, 44242, 44243, Education Code. Reference: Section 44244, Education Code.

STAFF REVIEW

POTENTIAL DISCREPANCIES BETWEEN TITLE 5 REGULATIONS AND THE FIVE STATUTORY STANDARDS

Title 5 Regulation	Action Indicated By Review Rationale	Staff Recommendation (If Different From Action Indicated By Review)
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80308. Guidelines for Committee Consideration of Denial, Revocation, or Suspension of Credentials.

(a) The Committee shall, in each case, conduct a careful and reasoned investigation into the fitness and/or competence of the person to perform the duties authorized by the credential applied for or held. Such investigation shall be based upon consideration of facts which show the following:

- (1) The extent to which the conduct has adversely affected students or fellow teachers; and the probability that such adverse effects will continue;
- (2) The proximity or remoteness in time of the conduct;
- (3) The type of certificate held by the person involved;
- (4) The extenuating or aggravating circumstances surrounding the conduct;
- (5) The praiseworthiness or blameworthiness of the motives resulting in the conduct;

(6) The probability that the questioned conduct will recur;

(7) The extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the person involved, or other certificated persons.

NOTE: Authority cited: Sections 44242, 44243, Education Code. Reference: Section 44244, Education Code.

80310. Probable Cause, What Is.

(a) For the purpose of these guidelines, probable cause is established when the weight of the evidence before the Committee is sufficient to cause a majority of the Committee to believe that the allegations of misconduct or unfitness are true and that an administrative hearing thereon would result in denial, suspension, or revocation of the credential in issue.

(b) In arriving at its conclusion that probable cause is or is not established, the Committee shall take into consideration any relevant information, if it is the sort of information upon which responsible persons are accustomed to rely in the conduct of serious affairs, including but not limited to the following:

- (1) Official records of judicial and public agencies;
- (2) Verified statements of persons having knowledge of the facts, including the respondent, who will be invited to submit such statements or appear in person before the Committee;
- (3) Statements and recommendations from employers and other responsible persons having special knowledge of the fitness and character of the licensee or applicant;
- (4) Investigative reports prepared by the State Department of Justice, or appropriate agencies.

NOTE: Authority cited: Sections 44225, 44242, 44243, Education Code. Reference: Section 44244, Education Code.

Retain

Necessity. This key section sets forth the standards laid down in Morrison vs. State Board of Education, 99 CAL REPTR 468 (1971), later codified in Chapter 662/79: ("Bermark" amendment to EC 44345). These standards are nowhere set forth in the statutes, and have a direct impact upon determining the rights of licensees.

Use EC 44225 as authority cited. Use EC 44345 as amended by Chapter 662/79, and EC 44421 as reference.

Amend

Delete Subsection (b). Subsection (a) interprets and makes specific the meaning of probable cause and the standard to be applied by the Committee, as provided in EC 44242.5. Subsection (b), however, is not necessary as it is redundant to the statute (Government Code, Section 11513).

Use EC 44225 as authority cited and EC 44242.5 as reference.

STAFF REVIEW
 POTENTIAL DISCREPANCIES BETWEEN TITLE 5 REGULATIONS AND THE FIVE STATUTORY STANDARDS

Staff Recommendation
 (If Different From
 Action Indicated By
 Review)

Action Indicated By Review
 Rationale

Title 5
 Regulation

80311. Reports of Dismissal, Resignation and Other Terminations for Cause of Certified Employees.
 Whenever any person holding a position for which certification qualifications are required by law is dismissed, resigns, or is otherwise terminated from such position as a result of alleged acts or omissions, which appear to constitute probable cause for the revocation or suspension of any credential issued by or held under the jurisdiction of the Commission for Teacher Preparation and Licensing, the employer of such certificated person shall within 30 days notify the Commission of such dismissal, resignation, or other termination and shall include its recommendation with respect to whether the Committee of Credentials should review the matter, together with the facts which justify such review, if recommended.
 NOTE: Authority cited: Section 44225, Education Code. Reference: Sections 44420, 44421, 44345, Education Code.

Amend
 Clarity. This regulation does not make clear that its provisions do not apply to other-than-public school employers. This may be remedied by adding the words "public school" before the word "employer" in line 6.
 Use EC 44225 as authority cited. Use EC 44341 and EC 44421 as references.

80312. Initiation of Investigation.
 (a) An investigation pursuant to Education Code Section 44244 shall be initiated when any of the following occurs:
 (1) Notice is received from any agency of government showing arrest for, or conviction of any applicant for, or holder of any credential, where it appears that the arrest or conviction arises out of acts or omissions which may constitute grounds for denial of an application for issuance or review of an application, or suspension, or revocation of the credential;
 (2) Notice is received pursuant to Section 80311 that a person holding a position for which certification qualifications are required by law has been dismissed, has resigned, or has otherwise been terminated from such position as a result of alleged acts or omissions which may constitute probable cause for revocation or suspension of his or her credential, and where the employer of such certified person has recommended investigation of the matter by the Committee;
 (3) Notice containing statement of facts is received from any credible, identifiable person showing that a licensee or applicant has committed acts or omissions which may constitute probable cause for denial, suspension, or revocation of his or her credential;
 (4) Receipt of a Request to File Statement of Issues or Accusation pursuant to Section 80313.
 (b) Where notice is received pursuant to Penal Code Sections 291 or 291.1 of Section 11591 of the Health and Safety Code, of the arrest of any certificated school employee for offenses specified therein, the committee shall ascertain whether such person has been placed on compulsory leave of absence from his/her position and if so, shall take no final action until disposition of the charges by the court.
 NOTE: Authority cited: Section 44225, Education Code. Reference: Sections 44244, 44940, Education Code.

Repeal
 Not necessary. This section is largely redundant to the statutes. New EC Section 44242.5 requires investigation of all allegations, and Section 80307 sets priorities.

STAFF REVIEW

POTENTIAL DISCREPANCIES BETWEEN TITLE 5 REGULATIONS AND THE FIVE STATUTORY STANDARDS

Title 5
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(If Different From
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Review)

80313. Request to File Statement of Issues or Accusation Made by Other Persons.

(a) Any person may request the Committee to file a statement of issues or accusation against an applicant for a credential or its renewal, or a credential holder, as follows:

(1) The request shall be in writing and signed by the person filing the charge, and shall identify the person to be charged;

(2) The request shall set forth in ordinary and concise language the particular acts or omissions with which the person is charged, and in such detail as is reasonably necessary to enable the Committee to understand the nature of the charges and their significance. Such request may, but need not, specify the statutes or regulations alleged to have been violated.

(3) Where the acts or omissions alleged are not within the personal knowledge of the person filing the request, such request shall be accompanied by statements of facts from one or more persons who do have personal knowledge of the acts or omissions alleged. Each shall be dated and signed and include the following statements: "I certify under penalty of perjury that the facts stated herein are true and correct" and showing the county where signed.

(b) Upon receipt of a request to file charges as provided herein, the Committee shall immediately initiate an investigation as provided in Section 80312.

NOTE: Authority cited: Sections 44225, 44244, Education Code. Reference: Section 44244, Education Code.

Amend.
Clarity. This section does not make clear that the term "any person" as used in Subsection (a) includes the Executive Secretary of the Commission or his/her designee. Since reports of acts or omissions provided by law enforcement agencies, for example, are not "allegations," they must be officially "alleged" by an appropriate officer of the agency. Subsection (a) should be amended by adding the words "including the Executive Secretary or his/her designee" after the words "any person" in line one.

Use EC 44225 as authority cited and EC 44242.5 as reference.

POTENTIAL DISCREPANCIES BETWEEN TITLE 5 REGULATIONS AND THE FIVE STATUTORY STANDARDS

Staff Recommendation
(If Different From
Action Indicated By
Review)

Action Indicated By Review
Rationale

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80314: Discovery Rights and Procedure.

(a) After initiation of an investigation by the Committee, the applicant or licensee or attorney of such person is entitled to obtain the names and addresses of witnesses to the extent known to the Committee, including but not limited to, those intended to be called to testify at a Committee hearing, and to inspect and make a copy of any of the following in the possession or custody or under the control of the Committee:

(1) A statement of a person other than the person named in the initial Request to File a Statement of Issues or Accusations, or any additional pleading, when it is claimed that the act or omission of the respondent, as to such person, is the basis for the investigation;

(2) A statement pertaining to the subject matter of the investigation made by any party to another;

(3) Statements of persons having personal knowledge of the acts, omissions, or events which are the basis for the proceeding not included in (1) or (2) above;

(4) All writings, including but not limited to, reports of mental and physical examinations and other things which the Committee then proposes to offer in evidence;

(5) Any other writing or thing which is relevant and which would be admissible in evidence;

(6) Investigative reports made by or on behalf of the committee or other party pertaining to the subject matter of the proceeding to the extent of such reports

(A) Contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions, or events which are the basis of the investigation;

(B) Reflect matters perceived by the investigator, or in the course of his or her investigation; or

(C) Contain or include by attachment any statement or writing described in (1) to (5), inclusive, or summary thereof.

(b) For the purposes of this section, "statements" include written statements by a person, signed or otherwise authenticated by him or her, stenographic, mechanical, electrical, or other recordings or transcripts thereof, of oral statements by the person and written reports or summaries of such oral statements.

NOTE: Authority cited: Section 44225, Education Code. Reference: Section 11507.6, Government Code.

Repeal
Not necessary. This section is redundant to Section 11507.6 of the Government Code (Administrative Procedures Act) as well as to Section 44244 of the Education Code which opens the record to the person and/or his/her counsel.

STAFF REVIEW

POTENTIAL DISCREPANCIES BETWEEN TITLE 5 REGULATIONS AND THE FIVE STATUTORY STANDARDS

Title 5 Regulation	Action Indicated By Review Rationale	Staff Recommendation (If Different From Action Indicated By Review)
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80315. Right to Counsel.
 The respondent applicant or licensee may be represented by counsel during any stage of investigation by the Committee.
 NOTE: Authority cited: Section 44225, Education Code. Reference: Section 44244, Education Code.

80316. Confidentiality of Investigative Material.
 All documents, statements, or other matter collected or acquired by the Committee in the course of an investigation shall be confidential and shall not, except pursuant to authorization of the Committee or Commission, be disclosed to any other person.
 NOTE: Authority cited: Section 44225, Education Code. Reference: Section 44248, Education Code.

80316.5. Confidential Report of Investigation.
 Prior to the issuance of any Notice of Meeting to Consider Allegations pursuant to Section 80317, staff of the Committee shall submit a confidential investigative report showing an evaluation of facts and evidence collected with respect to each investigation initiated pursuant to Sections 80312 and 80313. Where the confidential investigative report shows that the allegations, even if true, do not constitute violations of law; that the allegations are not supported by sufficient credible evidence; or that the facts show a complete defense or legal justification, the confidential investigative report and file shall be ordered sealed or destroyed.
 NOTE: Authority cited: Section 44225, Education Code. Reference: Sections 44243, 44244, Education Code; Section 1798.24, Civil Code.

Repeal
 Not necessary. This section is redundant to existing law and need not be restated in regulation. See EC, Section 44244 and Government Code Section 11502.

Repeal
 Not necessary. This section is redundant to Education Code Section 44248 which imposes penal sanctions upon unauthorized disclosure, and is also redundant to the Information Practices Act (Civil Code Section 1798 et seq).

Retain or Amend
 Necessity. This section "implements, interprets, and makes specific" the mandates of Education Code Sections 44242.5 and 44244 relating to Committee of Credentials investigation of allegations and disposition of unsupported allegations.

Authority. EC Section 44243 authorizes Commission supervision of the Committee of Credentials.

- Consistency. The reference to Section 80312 should be deleted if that section is repealed.
- Use EC 44225 as authority cited.
- Use EC 44242.5 and EC 44244 as references.

STAFF REVIEW

POTENTIAL DISCREPANCIES BETWEEN TITLE 5 REGULATIONS AND THE FIVE STATUTORY STANDARDS

Staff Recommendation
(If Different From
Action Indicated By
Review)

Title 5
Regulation

Action Indicated By Review
Rationale

80317. Notice of Meeting to Consider Allegations.

At least 30 days prior to a meeting or hearing of the Committee to consider allegations against a licensee or applicant, he or she shall be notified personally or by registered mail, and such notice shall be provided to the current or last employing school district. Such notice shall contain all allegations to be considered and shall specify the acts or omissions upon which the allegations are based; together with a statement that if the allegations are true, they are sufficient to cause his or her application or credential to be denied, suspended, or revoked.

NOTE: Authority cited: Section 44244, Education Code. Reference: Section 44244, Education Code.

Retain

Necessity and Authority.

This section is necessary to interpret and make more specific the terms of EC 44244.1 and 44244.

Disclosure of such information by the Commission or Committee of Credentials is authorized by EC 44248.

Use EC 44225 as authority cited. Use EC 44244.1 and EC 44244 as references.

80318. Action Committee May Take.

(a) If the Committee, upon completion of its inquiry and consideration of the guidelines provided in Section 80309 or 80309, does not believe that the allegations are true; or that if they are true, the Committee does not reasonably believe that an administrative hearing would result in denial, revocation or suspension of the person's credential, it shall terminate the proceeding.

(b) If the Committee believes that the allegations are true and that pursuant to the guidelines provided in Section 80308 there is probable cause for denial, revocation, or suspension of the credential, it shall direct the Executive Secretary to file, and the Executive Secretary shall file, a Statement of Issues or an Accusation against the person as provided by law.

Repeal

Not necessary. This section is redundant since the enactment of new Section 44242.5 to the Education Code.

POTENTIAL DISCREPANCIES BETWEEN TITLE 5 REGULATIONS AND THE FIVE STATUTORY STANDARDS

STAFF REVIEW

Title 5 Regulation	Action Indicated By Review Rationale	Staff Recommendation (If Different From Action Indicated By Review)
<p>80318.1. Reconsideration of Committee Action. The Committee may, and on the direction of the Commission shall, reconsider its action under either (a) or (b) of Section 80318 if a petition for reconsideration is filed by any person or entity who initiated the investigation or review pursuant to Section 80311, 80312, or 80313 within 30 days after service of the notice required under Section 80319. Such petition shall be in writing and shall state the facts and reasons for such reconsideration. The Committee shall place the petition upon its calendar for its next meeting, and shall report its action, if any with respect thereto, to the Chairperson of the Commission within 5 days after such meeting. NOTE: Authority cited: Sections 44242, 44243, Education Code. Reference: Section 44244, Education Code.</p>	<p>Retain or Amend Necessity. This section is necessary to govern Committee of Credentials reconsideration of specified matters, and "implements, interprets, and makes specific" the terms of EC 44242.5.</p>	
<p>80320. Consent Determinations. At any time after the Committee has determined that a Statement of Issues or an Accusation shall be filed against a respondent, but before a final determination of the matter has been made by the Commission, the respondent may propose and the Committee may recommend to the Commission a settlement upon terms which include a plan for rehabilitation or requalification of the respondent within a specified time, consistent with other provisions of law. NOTE: Authority cited: Sections 44242, 44243, Education Code. Reference: Section 44244, Education Code.</p>	<p>Consistency. References to Sections 80318, 80312, and 80319 should be deleted if those sections are repealed. Use EC 44225 as authority cited and EC 44242.5 as reference.</p>	
<p>80321. Committee of Credentials Reports to the Commission. The Committee of Credentials shall report back to the Commission from time to time. NOTE: Authority cited: Sections 44242, 44243, Education Code. Reference: Section 44244, Education Code.</p>	<p>Repeat - Transfer to Policy File Not necessary. This section represents an internal procedure only, which need not be contained in Title 5. This procedure should be placed in the policy file.</p>	