

COMMISSION ON TEACHER CREDENTIALING

1812 9TH STREET
SACRAMENTO, CA 94244-2700

(916) 445-0184



August 4, 1987

Coded Correspondence #87-8802

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

FROM: *Richard K. Mastain*
Richard K. Mastain, Executive Secretary

SUBJECT: Proposed Title 5 Regulations - Specify Certain Types
of Conduct as Unprofessional and Causes for
Disciplinary Action

NOTICE IS HEREBY GIVEN

The Commission on Teacher Credentialing will hold public
hearings on:

October 1, 1987
1:30 p.m.
Clarion Hotel
700 16th Street
Sacramento, CA 95814

October 23, 1987
2:30 p.m.
Los Angeles County
Office of Education
Board Room
9300 East Imperial Hwy.
Downey, CA 90242

November 5, 1987
1:30 p.m.
Hilton Hotel
1055 Van Ness Ave.
Fresno, CA 93721

Any interested person may submit written comments to the Commission's offices at 1812 9th Street, Sacramento, CA 94244-2700, at least one day prior to the day of Public Hearing. Any written comments received 14 days prior to 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 one of the three Public Hearings.

INFORMATIVE DIGEST

Existing statutes authorize the Commission on Teacher Credentialing to impose discipline consisting of revocation, suspension, and private admonition upon its licensees who are guilty of unprofessional conduct, but does not define or make specific the types of conduct which are required or prohibited.

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This proposed regulation would specify certain types of conduct as unprofessional and causes for disciplinary action.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Executive Secretary of the Commission on Teacher Credentialing has determined that the proposed regulation will not impose a mandate on local agencies or school districts within the meaning of Government Code Section 113465(a)(5).

EFFECT ON HOUSING COSTS AND SMALL BUSINESSES

Insignificant effects on private persons or businesses.

AUTHORITY TO ADOPT REGULATIONS

The Commission on Teacher Credentialing proposes to add new Section 80305 to Part VIII of Title 5 of the California Administrative Code under authority of Education Code Sections 44225(b) and 44339. The purpose of this proposed enactment is to interpret and make specific the terms of the Commission's license disciplinary authority under Education Code Sections 44420, 44421, and Section 44345 as incorporated by reference in Section 44421.

CONTACT

Requests for copies of the proposed regulation (pursuant to Government Code Section 11346.7(a)), for the Initial Statement of Reasons, or for other rulemaking file information, and questions concerning this proposed regulatory action or the public hearing should be addressed to: Walter W. Taylor, Staff Counsel, Commission on Teacher Credentialing, 1812 9th Street, Sacramento, CA 94244-2700, or telephone (916)445-0243.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

An initial statement of reasons for adopting these regulations has been prepared by the Commission on Teacher Credentialing staff. The statement includes the specific purpose of each regulatory interpretation, requirement or prohibition and the factual basis for determining that each regulatory interpretation requirement or prohibition is necessary. This statement is available on request along with the full text of the proposed regulations and all the information upon which the proposed action is based pursuant to Government Code Section 11346.5(a)(9).

ADDITIONAL COMMENTS

Rulemaking File: Pursuant to Government Code Section 11347.3 the Commission is maintaining a rulemaking file for the proposed regulation. As information is received it will be added to the rulemaking file which will be available for inspection at the Commission offices during normal business hours.

Presentation of Written Comments and Oral Testimony at Public Hearing: Interested persons may present oral comments to the Commission at the scheduled public hearings on these proposed regulations. Any person wishing to submit written comments at these times and places may do so. In order for all commissioners and staff to have the immediate opportunity to review comments submitted at the hearings, it is requested but not required that persons submitting such comments provide twenty-five copies. All written statements submitted at the hearings will, however, be given full consideration pursuant to Government Code Section 11346.8(a) regardless of the number of copies submitted. Comments submitted in writing must be received prior to the close of the public hearings pursuant to Government Code Section 11346.5(a)(8), in order for them to be considered.

Cost Statement:

No increase costs or savings.
No significant adverse effect on small businesses.

Changes in the Proposed Regulation:

Where the Commission substantially modifies the text of the proposed regulation and where such modification is sufficiently related to the text made available to the public so that the public was adequately placed on notice that the Commission might adopt the modified version, the full text of the modified version of the proposed regulation will be made available for at least 15 days at the Commission's offices at 1812 9th Street, Sacramento, CA 94244-2700, prior to the date on which the Commission formally adopts or amends such proposed regulation, pursuant to Government Code Section 11346.8(c).

80305. RULES OF CONDUCT FOR PROFESSIONAL EDUCATORS

RULE 1.

APPLICATION OF RULES OF PROFESSIONAL CONDUCT: PURPOSES,
CITATION, DEFINITIONS

(a) These rules are binding upon every person holding a credential or any license to perform educational services under the jurisdiction of the Commission on Teacher Credentialing, and the consequences of any willful breach may be revocation or suspension of the credential, or license, or private admonition of the holder.

(b) Nothing in these rules is intended to limit or supersede any provision of law relating to the duties and obligations of certificated persons or to the consequences of the violation of such duties and obligations. The prohibition of certain conduct in these rules is not to be interpreted as approval of conduct not specifically cited.

(c) These rules may be cited and referred to as "Rules of Conduct for Professional Educators".

(d) As used in these rules:

(1) "Certificated person" means any person who holds a certificate, permit, credential, or other license authorizing the performance of teaching or education-related service in grades K through 12 in California public schools.

(2) "Professional employment" means the performance for compensation of teaching or other education-related employment in a position for which certification requirements are set by law.

(3) "Confidential information" means,

1. Information made confidential by Section 35301 of the Education Code; or,

2. Information which was provided to the certificated person solely for the purpose of facilitating his/her performance of professional services for or on behalf of the person or employer providing such information.

RULE 2.

PROFESSIONAL CANDOR AND HONESTY IN LETTERS OR MEMORANDA OF
EMPLOYMENT RECOMMENDATION

(a) A certificated person shall not write or sign any letter or memorandum which intentionally omits significant facts, or which states as facts matters which the writer does not know of his/her own knowledge to be true relating to the professional qualifications or personal fitness to perform certificated services of any person whom the writer knows will use the letter or memorandum to obtain professional employment.

(b) This rule has no application to statements identified in the letter or memorandum as personal opinions of the writer.

RULE 3.

WITHDRAWAL FROM PROFESSIONAL EMPLOYMENT

(a) A certificated person shall not abandon professional employment without good cause.

(b) "Good cause" includes but is not necessarily limited to circumstances not caused by or under the voluntary control of the certificated person.

RULE 4.

UNAUTHORIZED PRIVATE GAIN OR ADVANTAGE

A certificated person shall not:

(a) Use for his/her own private gain or advantage or to prejudice the rights or benefits of another person any confidential information relating to students or fellow professionals;

(b) Use for his/her own private gain or advantage the time, facilities, equipment, or supplies which is the property of his/her employer without the express or clearly implied permission of his/her employer;

(c) Accept any compensation or benefit or thing of value other than his/her regular compensation for the performance of any service which he/she is required to render in the course and scope of his/her certificated employment. This rule shall not restrict performance of any overtime or supplemental services at

the request of the school employer; nor shall it apply to or restrict the acceptance of gifts or tokens of minimal value offered and accepted openly from students, parents or other persons in recognition or appreciation of service.

RULE 5.

PERFORMANCE OF UNAUTHORIZED PROFESSIONAL SERVICES

A certificated person shall not:

(a) Knowingly, except under written notice filed with the public school employer with a copy to the Committee of Credentials, perform professional services if he or she does not possess a credential authorizing the service to be performed;

(b) Assign or require a subordinate certificated person to perform any professional service which the subordinate is not authorized to perform by his or her credential or which is not approved by appropriate governing board authorization;

(c) Neither (a) nor (b) shall be applicable in a bona fide emergency situation. For the purposes of this rule, a bona fide emergency is an unforeseeable circumstance for which no advance preparation could have been made and requiring immediate action to protect the health, safety, and welfare of students.

RULE 6.

PERFORMANCE WITH IMPAIRED FACULTIES

(a) A certificated person shall not:

(1) Perform or attempt to perform any duties or services authorized by his or her credential during any period in which he or she knows or is in possession of facts showing that his or her mental or intellectual faculties are substantially impaired for any reason, including but not limited to use of alcohol or any controlled substance.

(2) Assign or require or permit a subordinate certificated person to perform any duties authorized by his or her credential during any period in which the superior certificated person knows or is in possession of facts showing that the subordinate certificated person's mental or intellectual faculties are substantially impaired for any reason, including but not limited to use of alcohol or any controlled substance.

(b) For the purpose of this rule, substantial impairment means a visible inability to perform the usual and customary duties of the position in a manner that does not represent a danger to pupils, employees, or school property. It does not include or mean inability attributable to lack of, or inadequate, professional preparation or education.

RULE 7.

HARASSMENT AND RETALIATION PROHIBITED

No certificated person shall directly or indirectly use or threaten to use any official authority or influence in any manner whatsoever which tends to discourage, restrain, interfere with, coerce, or discriminate against any subordinate or any certificated person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the governing board of a school district, the Commission on Teacher Credentialing or any other public agency authorized to take remedial action, any facts or information relative to actual or suspected violation of any law regulating the duties of persons serving in the public school system, including but not limited to these rules of professional conduct.

RULE 8.

DISCRIMINATION PROHIBITED

A certificated person shall not, without good cause, in the course and scope of his or her certificated employment and solely because of race, color, creed, gender, national origin, handicapping condition or sexual orientation, refuse or fail to perform certificated services for any person.

Authority Cited: Education Code 44225(b), 44339
Reference: Education Code Sections 44420, 44421, 44345

COMMISSION ON TEACHER CREDENTIALING

1512 9TH STREET
SACRAMENTO, CA 95833-2700



OFFICE OF THE EXECUTIVE SECRETARY

Section(s) 80305

RESPONSE TO 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 which are coming up for Public Hearing, please return this response to the Commission Office at the above address 14 days prior to public hearing in order that the material can be presented at the Commission meeting.

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 only.

Organizational 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.

(Print of Type Name) Date _____

Title _____

Representing: _____
(Circle One: School District, College, University, Professional Organization, Private Citizen, Other