

COMMISSION ON TEACHER CREDENTIALING

1812 9TH STREET
SACRAMENTO, CA 94244-2700

(916) 445-0184

87-8810

December 11, 1987

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

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

SUBJECT: Proposed Title 5 Regulations Related to
Professional Standards Regulations, Reports
of Dismissal, Resignation and Other Terminations
for Cause of Certificated Employees

In accordance with Commission policy, proposed Title 5 Regulations, Sections 80311 through 80313 and Section 80319, are being distributed prior to the public hearing. The public hearing is scheduled on:

February 4, 1988
1:30 p.m.
Clarion Hotel
16th & H Streets
Sacramento, California 95814

Submission of Written Comment

Any interested person may submit written comments to the Commission's offices at 1812 9th Street, Sacramento, California 94244-2700, by February 4, 1988. Any written comments received by the earlier Commission agenda cut-off date of January 20, 1988 will be included in the written agenda prepared for and presented to the full Commission on February 4, 1988.

Presentation of Written Comments and Oral Testimony at Public Hearing

Any interested person may present oral comments to the Commission at the time and place scheduled for the public hearing on these proposed regulations. Any person wishing to submit written comment at that time and place may do so. In order for all Commissioners and staff to have the immediate

opportunity to review written comments submitted at the hearing, it is requested but not required that persons submitting such comments provide twenty-five copies. All written statements submitted at the hearing 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 hearing on February 4, 1988, pursuant to Government Code Section 11346.5(a)(8), in order for them to be considered.

INFORMATIVE DIGEST

The Commission proposes to amend four sections of Title 5 of the Administrative Code to clarify the procedures governing operations of the Committee of Credentials. Section 80311 would require reports of employment terminations of intermittent employees involving decisions not to rehire; Section 80312 would be added to clarify the authority of the Committee of Credentials to initiate investigations; Section 80313 would require incompetence complaints against teachers to be first filed with the school district employer; Section 80319 would delete the provision for notice of private admonitions which now conflict with the privacy provision of Education Code Section 44438.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

No increased cost or savings to any state agency. No cost to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4, of the Government Code requires reimbursement. Other nondiscretionary costs or savings imposed on local agencies: none. Cost or savings in federal funding to the state, private persons/businesses impact statement: none.

EFFECT ON HOUSING COSTS AND SMALL BUSINESS

None

AUTHORITY

The Commission on Teacher Credentialing proposes to amend Sections 80311, 80312, 80313 and 80319 under the authority granted by Education Code Sections 44285(b) and 44243. The purpose of this amendment of the California Administrative Code, Title 5, is to implement, interpret, and make certain the law relating to procedures of the Committee of Credentials.

REFERENCE

The reference for this proposed action is Education Code Sections 44345, 44420, 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 Taylor, Staff Counsel, Commission on Teacher Credentialing, 1812 9th Street, Sacramento, California 94244-2700, or telephone number (916)445-0243.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

An initial statement of reasons proposing the amendment of Section 80311 has been prepared by the Commission on Teacher Credentialing staff. The statement includes the specific purpose of the proposed amendment and the factual basis for determining that the regulatory interpretation and requirement is necessary. This statement is available on request along with the full text of the proposed amended regulations and all the information upon which this proposed action is based, pursuant to Government Code Section 11346.5(a)(9).

ADDITIONAL COMMENTS

Changes in the Proposed Regulation

Where the Commission substantially modifies the text of the proposed regulations 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 a modified version, the full text of the modified version of the proposed regulations 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 regulations, pursuant to Government Code, Section 11346.8(c).

Enclosure

Proposed Amendments of Existing Text

COMMISSION ON TEACHER CREDENTIALING
AMENDMENT OF TITLE 5 REGULATIONS
CALIFORNIA ADMINISTRATIVE CODE
(PROPOSED)

CHAPTER 3. Committee of Credentials

Article 2. Duties and Functions of the Committee
of Credentials; Guidelines.

80311. Reports of Dismissal, Resignation and Other Terminations
for Cause of Certificated Employees.

(a) Whenever any person holding a position for which certification qualifications are required by law is dismissed, resigns, is suspended for at least 90 days, or is otherwise terminated from such position as a result of allegations of his or her commission of 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 on Teacher Credentialing, the employer of such certificated person shall within 30 days notify the Commission of such suspension, dismissal, resignation, or other termination with decision to not re-employ and shall provide to the Committee of Credentials facts which constitute the cause or causes for the disciplinary action against the certificated employee by the reporting employer. Such report shall be made to the Committee of Credentials irrespective of any agreement or stipulation providing for withdrawal of allegations previously served upon the certified employee in consideration of his or her resignation as a result of the filing of such allegations or other failure to contest the truth of the allegations.

Authority: Section 44225, Education Code.

Reference: Section 44242.5, Education Code.

80312. Filing of Allegations with, and Presentation to the Committee of Credentials

(a) Each notice of allegations of acts or omissions by an applicant for, or holder of a credential, for which he or she may be privately admonished or for which his or her application may be denied, suspended, or revoked shall be presented to the Committee of Credentials in writing, and each such Notice of Allegations shall be filed as provided in Sections 80311 or 80313, except as provided in (b).

(b) The Committee of Credentials on its own motion may cause a Notice of Allegations to be filed on information and belief based upon official records of the Department of Justice, law enforcement agencies, the courts or other agencies of this state or another state or the United States.

(c) A Notice of Allegations shall be deemed to have been filed with the Committee of Credentials and an investigation commenced in connection therewith when the Notice of Allegation has first been served upon the person by certified mail at his last known address or by personal service as provided in subsection (c) of Section 11507 of the Government Code.

Authority: Section 44225(b), Education Code.

Reference: Section 44242.5, Education Code; Government Code 11505.

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, shall identify the person to be charged and shall set forth in ordinary and concise language the particular acts or omissions with which the person is charged 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. Each such request shall be dated and signed and shall include the following statement: "I certify under penalty of perjury under the laws of the State of California that the facts stated herein are true and correct", ~~and shall show the county where subscribed.~~

(2). 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 under the laws of the State of California that the facts stated herein are true and correct". ~~and showing the county where signed.~~

(b) Where the acts or omissions alleged, if true, constitute incompetence to perform the educational duties authorized by the credential applied for or held, which incompetence is reasonably

attributable to lack of, or inadequate education and/or professional preparation, the Committee shall immediately forward a copy of the allegations to the Superintendent of the school district which employs the person and to the person who is the subject of the allegations, and such allegations shall be deemed not to have been filed with the Committee until the superintendent has reported to the Committee in writing what remedial action, if any, he has taken or proposes to take with respect to the allegations, or after 60 days, whichever is first.

(c) Where the acts or omissions alleged, if true, constitute any other cause for discipline against an applicant for a credential or its renewal, or a credential holder, upon receipt of a request to file charges as provided herein, the Committee of Credentials shall immediately initiate an investigation, as provided in Section 80312.

Authority: Section 44225(b), Education Code.
Reference: Section 44242.5, Education Code.

80319. Notice of Committee Action; Form of Notice

(a) A written copy of the determination of the Committee together with a notice of appeal rights available shall be delivered to the respondent personally or sent by registered mail to his or her last known address within 30 days after the meeting or hearing at which the determination is made.

Unless the determination involves private admonition as provided in Section 44438 of the Education Code, a copy of the said determination shall be mailed to all complainants and parties receiving 30-day notice of the Committee's decision in the case, including the reasons for that decision. Such notice shall also be made available to members of the public upon request.

(b) The notice of determination shall be substantially in one of the following forms:

(1) "No probable cause has been found to deny your application for issuance of a credential or its renewal, and the same shall be granted forthwith."

(2) "No probable cause has been found to cause your credential to be revoked or suspended; and the investigation is herewith closed."

(3) "Probable cause has been found to cause your application for a credential or its renewal to be denied and the same is herewith denied, and said decision will become final unless you contest this decision. You may do so within 30 days hereafter by

addressing your request for an administrative hearing to: Commission on Teacher Credentialing, Professional Standards, 1812 Ninth Street, Sacramento, CA 94244-2700."

(4) "Probable cause has been found to cause your credential to be suspended or revoked. An administrative hearing to determine whether your credential shall be revoked or suspended shall be initiated by the filing of an accusation against you which shall be served upon you within the time provided by the law, and shall include notice of your rights to appear and be heard and consequences of your failure to do so, all pursuant to Government Code Section 11505."

(c) When actions to initiate proceedings to deny, suspend, or revoke a credential, the current or last employing school district shall be notified.

Authority: Section 44244, Education Code.

Reference: Sections 44242, 44243, Education Code.