

COMMISSION ON TEACHER CREDENTIALING

1812 9TH STREET
SACRAMENTO, CA 94244-2700

November 4, 1988

88-8906

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

Richard Mastain

FROM: Richard K. Mastain, Executive Secretary

SUBJECT: Title 5 Regulations, Sections 80311, 80312, 80313 and 80319
Regarding the Professional Standards Division of the Commission

The Office of Administrative Law has recently approved amendments to the above-listed Title 5 regulations pertaining to reporting requirements, as well as the powers and responsibilities, of the Committee of Credentials and Professional Standards Division of the Commission on Teacher Credentialing as follows:

California Code of Regulations Title 5 Section 80311 as amended requires that California school districts must now also include in reports of termination of certificated personnel to the Commission on Teacher Credentialing the terminations of employment of temporary certificated personnel or substitute teachers when such persons have been terminated or not reemployed as a result of allegations or commission of acts or omissions which appear to constitute probable cause for revocation or suspension of credentials. It further requires the district to provide to the Committee of Credentials the facts which constitute the cause or causes for the disciplinary action against the temporary certificated employee. The district is not required to report decisions to not reemploy a temporary or substitute employee if the termination was based on a lack of competence.

The text of the new regulation follows:

**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, including a temporary or substitute employee, is dismissed, resigns, is suspended for at least 90 days, or is otherwise terminated by a decision to not reemploy 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 by a 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 certificated 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.

(b) A termination by a decision to not reemploy a temporary or substitute employee solely for lack of competence need not be reported.

Note: Authority cited: Section 44225, Education Code. Reference: Section 44242.5, Education Code.

California Code of Regulations Title 5 Section 80312 specifies the procedure and authority for the filing and verification of allegations by the Committee of Credentials on its own motion and allows for the use of information contained in official records of the Department of Justice, law enforcement agencies, courts, other agencies of this state or another state or the United States as cause for investigation. The amendment requires that the individual must have notice of the Committee's investigation and prescribes the form of such notice.

The text of the new regulation follows:

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

(a) A Notice of Allegations is a notice in writing issued by the Commission on Teacher Credentialing and served upon an applicant or holder of a credential, setting forth in ordinary and concise language all specific acts or omissions charged and the statute or rules violated for which the application may be denied or the credential may be suspended or revoked, or for which the applicant or holder may be privately admonished.

(b) The Committee of Credentials on its own motion may cause a Notice of Allegations to be issued 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 of the United States. Such Notice of Allegations shall be deemed to have been filed with and issued by the Committee of Credentials and an investigation commenced in connection therewith when the Notice of Allegations has first been served upon the person by certified mail or by personal service as provided by law.

Note: Authority cited: 44225, Education Code. Reference: 44244, Education Code.

California Code of Regulations Title 5 Section 80313 as amended provides that a verified statement of facts alleged shall be executed under the laws of the State of California, eliminating the need to show county or place where signed. It also provides that, where the allegations relate to incompetency to perform the educational duties authorized by the credential applied for or held, a copy of the allegations shall immediately be forwarded to the superintendent of the school district employing the person who is the subject of the complaint, as well as to respondent. It provides that the Committee shall not schedule a meeting or hearing on the complaint until the superintendent has reported to the Committee on the remedial action which

has been or will be taken with respect to the allegations or until after 60 days, whichever comes first.

The text of the new regulation follows:

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".

(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".

(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 commence its investigation by immediately forwarding 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 the committee shall not schedule a meeting or hearing on this matter until the Superintendent has reported to the Committee in writing what remedial action, if any, he/she has taken or proposes to take with respect to the allegations, or until 60 days has passed since the Superintendent was delivered the allegations, whichever is sooner.

(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, the Committee of Credentials shall immediately initiate an investigation.

Note: Authority cited: Section 44225, Education Code. Reference: Section 44242.5 Education Code.

California Code of Regulations Title 5 Section 80319 as amended in subsection (a) specifies 14 days as the time within which a written notice of

the determination of the Committee and notice of applicable appeal rights shall be served upon the respondent. Subsection (a) is also amended to exempt "private admonitions" from being disclosed to anyone other than the current employer pursuant to Education Code Section 44438. Subsection (b)(3) is amended to reflect the current address of the agency.

The text of the new regulation follows:

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 14 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 requesting 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 95814-7000."

(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.

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