

COMMISSION ON TEACHER CREDENTIALING

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OFFICE OF THE EXECUTIVE DIRECTOR

96-9613

DATE: June 28, 1996

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

FROM: Sam W. Swofford, Ed.D., Executive Director

RE: **NOTICE OF PUBLIC HEARING**

**Amendments to Title 5, California Code of Regulations,
Chapter 3. Committee of Credentials
Sections 80300-80320**

The Commission on Teacher Credentialing (Commission) proposes to adopt, to repeal, or to amend various regulations affecting the work of the Committee of Credentials. Such action may be taken by the Commission after considering all comments, objections or recommendations regarding the proposed actions. These changes are more fully described in the enclosed Notice of Proposed Rulemaking.

The written comment period closes on August 12, 1996. If you wish to orally comment on the proposed actions, such comments will be taken at a public hearing to be held:

Date: November 7, 1996

Time: 1:30 p.m., or as soon thereafter as Commission
business will permit

Place: Hyatt Regency
1209 L Street
Sacramento, CA

**TITLE 5 CALIFORNIA CODE OF REGULATIONS
NOTICE OF PROPOSED RULEMAKING**

**PROPOSED ADOPTION OF SECTIONS 80300, 80302, 80303,
80304, 80306, 80307, 80307.1, 80308, 80309.1, 80310,
80311, 80312, 80313, 80314, 80314.5, 80315, 80317.**

**PROPOSED REPEAL OF EXISTING SECTIONS 80301(2),
80301.5, 80306, 80307, 80308, 80310, 80311, 80312,
80313, 80317, 80319.**

**PROPOSED AMENDMENTS TO EXISTING SECTIONS 80316.5,
80317.2, 80320.**

The Commission on Teacher Credentialing (Commission) proposes to adopt, to repeal, or to amend the sections of Title 5 of the California Code of Regulations (CCR) described below after considering all comments, objections, and recommendations regarding the proposed actions.

PUBLIC HEARING

Comments on the proposed actions will be taken at a public hearing to be held:

Date: November 7, 1996

Time: 1 :30 p.m., or as soon thereafter as Commission
business will permit

Place: Hyatt Regency
1209 L Street
Sacramento, CA

At the hearing any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing .

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit relevant written comments on the proposed actions. The written comment period closes at 5:00 p.m. on August 12, 1996. The Commission will only consider written comments received at the Commission offices by that time. Submit comments to:

Division of Professional Practices
Commission on Teacher Credentialing
1812 9th Street,
Sacramento, CA 95814-7000.

Any written comments received during the comment period 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 the hearing.

AUTHORITY AND REFERENCE

Education Code §44225(q) and §44242.7(b) authorize the Commission to adopt the proposed actions which would implement, interpret or make specific sections of the Education Code found in Division 3, Part 25, Chapters 2 and 3, and govern the procedures of the Commission. Specific reference for proposed rulemaking is Education Code sections 44225, 44242.7, 44242.5, 44242.5(b)(2)(3)(4) (c)(2)(d), 44242.5(c), 44242.7(a), 44244, 44244.1, 44346, 44438 and Penal Code section 31 l.

MODIFICATION OF PROPOSED ACTION

If the Commission proposes to modify the action 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.

INFORMATIVE DIGEST

The Commission is an independent agency of the State of California responsible for licensing educators for work in the public schools. Among other duties, the agency enforces standards of professional conduct, commonly known as professional discipline. (Education Code sections 44421 to 44440.)

The Committee of Credentials (Committee) is also a state body. (Education Code sections 44240 to 44248.) Its seven members are appointed by the Commission for terms of two years. In order to ensure a high level of public confidence in California teachers and other credentialed public school employees, the Commission and the Committee monitor the moral fitness and professional conduct of credential applicants and holders. By statute, the Committee is responsible for initiating all investigations into allegations of misconduct, reviewing and deliberating upon those allegations, and recommending, in appropriate cases, the imposition of adverse action against the credential held or denial of the credential sought. (Education Code sections 44242.5 to 44244.)

Commission staff supports both the Commission and the Committee in carrying out the statutory requirements of professional discipline.

On September 19, 1994, Governor Pete Wilson signed into law Senate Bill 1843 (Hart). This bill made significant and far reaching changes to the discipline function of the Commission, and to the work of the Committee of Credentials (Committee).

The far-reaching changes envisioned by the Hart bill require a major revision of the regulations which govern the work of the Committee and the Commission. First, the bill requires the Committee to undertake several new duties as part of its investigation. These investigative responsibilities include all of the following:

- preparation and presentation of a summary of the applicable law;
- preparation and presentation of a summary of the facts, both contested and uncontested;
- preparation and presentation of a summary of the circumstances in aggravation or mitigation of the allegation.

In addition, upon completion of the investigation, the bill mandates the Committee to issue "findings" which include the following information:

- a description of the Committee's concurrence or nonconcurrence with the facts reported in the investigation;
- the Committee's determination as to which acts of misconduct occurred; and

- the relationship between the misconduct and the person's ability or fitness to perform the duties authorized by the credential.

The last major revision of the regulations which govern the work of the Committee of Credentials occurred in 1982. Since that time there have been significant changes in the statutes governing the work of the Commission as well as organizational alterations which impact the role of the Committee.

The proposed regulations, amendments to existing regulations, and proposed repeal of existing regulations, are all designed to enhance and clarify the process of professional discipline.

Proposed regulation section 80300 defines terms used in the regulations contained in Title 5, Chapter 3 and in the Education Code. Such definitions increase the clarity of the statutes and regulations.

Existing regulation section 80301(2) is proposed to be repealed. This existing regulation duplicates Education Code section 44346(b) and (c).

Existing regulation section 80301.5 containing standards for investigation is proposed to be repealed because proposed section 80302 contains new standards for investigation.

Proposed regulation section 80302 contains standards and guidelines to conform with the case of *Morrison v. State Board of Education* (1969) 1 Cal.3d 214. This section serves to give notice of the requirements of professional conduct.

Proposed regulation section 80303 is a requirement on credential holders and district superintendents to report changes in employment status when there are allegations of misconduct. This section provides information to the Commission in accordance with Education Code section 44242.5(b)(3). The Commission then has sufficient information to open an investigation in accordance with that section.

Proposed section 80304 notifies the employing district about the type of information which must be given to the Commission when filing a notice of sexual misconduct under Education Code section 44242.5(b)(4).

Existing regulation section 80306 is proposed to be repealed because proposed regulations 80314 and 80315 contain new proposed regulations on the same topics.

Proposed regulation section 80306 defines and clarifies the time limitations set forth in Education Code section 44242.7(a).

Existing regulation section 80307 is proposed to be repealed. Under this existing regulation some matters may be delayed. Commission policy is that all cases should be heard as soon as feasible.

Proposed regulation 80307 establishes the process for the respondent to obtain information from the Commission's file and sets the cost of receiving such information.

Proposed regulation section 80307.1 provides the public with an ascertainable event to mark the time an investigation is started.

Existing regulation section 80308 is proposed to be repealed. The operative portions of this provision have been set forth in proposed regulation 80302. This section serves to give notice of the requirements of professional conduct.

Proposed regulation section 80308 allows the Committee to view preliminary information to make a determination of whether that information warrants an investigation.

Proposed regulation section 80309.1 allows the Committee to review information after the commencement of an investigation to determine whether the information warrants setting the matter for review pursuant to Education Code section 44244.

Existing regulation section 80310 is proposed to be repealed. This existing section defines probable cause and a new definition is contained in proposed section 80300.

Proposed regulation section 80310 clarifies the notice requirement of Education section 44244(a) and explains who is entitled to receive notice of the Committee's investigation.

Existing regulation 80311 requires reports of dismissals or resignations. This section is proposed to be repealed. This section is revised in proposed section 80303.

Proposed regulation section 80311 provides a method for requesting a personal appearance before the Committee.

Existing regulation section 80312 is proposed to be repealed. This section defined a notice of allegations and how matters are to be presented to the Committee.

Proposed regulation section 80312 allows a matter set for review by the Committee to be delayed upon a showing of good cause.

Existing regulation section 80313 allows an individual to file a complaint with the Commission. This regulation is now codified in Education Code section 44244.5 and is no longer necessary. Therefore, this regulation is proposed to be repealed.

Proposed regulation section 80313 amends existing regulation section 80317.2 and explains when a material witness may appear before the Committee

Proposed regulation section 80314 states that four Committee members must agree to take any action.

Proposed regulation section 80314.5 describes the notice to be sent following a Committee meeting, and makes the notice available to the public upon request.

Proposed regulation section 80315 provides a right of reconsideration to holders, applicants, complainants and employers. The regulation replaces existing regulation 80306(b). Reconsideration may be requested within 30 days after notice and must include new material information.

Existing regulation section 80316.5 is proposed to have a portion repealed and amended. This section requires a report of the investigation which is superseded by statute. The proposed amendment will provide for sealing of the investigative report when the allegations filed are determined to be groundless.

Existing regulation section 80317 is proposed to be repealed. This regulation is to be replaced by proposed section 80310.

Existing regulation section 80317.2 is proposed to be amended and have the section number changed to 80313. The amendment will explain when material witnesses may appear before the Committee.

Proposed regulation section 80317 makes specific how and when a request for an administrative hearing must be made.

Existing regulation section 80319 is proposed to be repealed. This regulation is to be replaced by proposed section 80314.5 which describes the notice of Committee action.

Existing regulation section 80320 is proposed for amendment. The amendment is to emphasize that a primary purpose of professional discipline is for the protection of the public.

DISCLOSURES REGARDING THE PROPOSED ACTION

Cost or savings to any state agency: Estimated increased income from charges under proposed section 80307 is under \$ 1,000. Estimated savings under proposed section 80309 is under \$50.

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

Other non-discretionary cost or savings imposed upon local agencies: none.

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

Significant adverse economic impact on business including ability of California business to compete with business in other states: none.

Significant effect on housing costs: none.

Effect on private persons and businesses directly affected: insignificant.

Impact on jobs: none.

EFFECT ON SMALL BUSINESS

There is no impact on small business because no small business: 1) is required to comply with the regulations; 2) will enforce the regulations; 3) derives a benefit from the enforcement of the regulations, or 4) incurs a detriment from the enforcement of the regulations.

ALTERNATIVES CONSIDERED

The Commission must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON/TEXT/FURTHER INFORMATION

Inquires concerning the proposed action may be directed to Michael Barth at (916) 445-0243. 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. In addition, all the information upon which this proposal is based is available for inspection and copying.

AT: COMMISSION ON TEACHER CREDENTIALING
1812 9TH STREET
SACRAMENTO, CALIFORNIA 95814-7000

The Commission has determined that the proposed regulatory action will neither create nor eliminate jobs within California; create new businesses or eliminate existing businesses, or affect the expansion of businesses currently doing business within California.