

CALIFORNIA COMMISSION ON TEACHER CREDENTIALING

Box 944270 (1900 Capitol Avenue)
Sacramento, California 94244-2700
(916) 445-7254
www.ctc.ca.gov
credentials@ctc.ca.gov



OFFICE OF THE EXECUTIVE DIRECTOR

00-0021

Date: July 7, 2000

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

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

Subject: Precedential Waiver Decisions

One of the Commission's Strategic Goals is to improve customer service. The Commission on Teacher Credentialing intends to improve customer service by providing guidance, clarity and consistency of the waiver process by publishing written precedential decisions.

Since June 1994, waivers have been issued to employers who have established a need based on facts that they have been unable to employ credentialed teachers, interns or an individual on an emergency permit. Procedures are in place to process each waiver as an individual decision by the Appeals and Waivers Committee.

Under current law (Government Code §11425.60), an agency may designate as a precedent, a decision or part of a decision that contains a significant legal or policy determination of general application that is likely to recur.

Precedential Decisions will provide an easy, concise and understandable approach to presenting the procedural background, factual summary and concise rule of each decision. The holding of each decision is the expression of the Commission's legal or policy determination of general application that is likely to recur. It is intended as guidance to Commissioners, staff, stakeholders and the public at large regarding what action the Committee will likely recommend to the Commission should it be faced with a similar question.

The Commission will publish precedential decisions based on specific cases that have been identified by the Appeals and Waivers Committee and they will direct staff to draft an opinion based on the Commission's actions. The opinion will be placed in the General Session minutes at the meeting immediately following the item being identified as precedential. An index of the holdings will be

maintained by the Commission to provide stakeholders with an easy reference to the Commission's waiver practices. The complete decisions will be accessible to the public through the Commission's website, by subscription from the Office of Administrative Hearings and will also be published yearly in the Waiver Manual.

**BEFORE THE
COMMISSION ON TEACHER CREDENTIALING
OF THE STATE OF CALIFORNIA**

In the Matter of the Denial of the)
Application for Waiver of Program)
for Specialist Credential Submitted)
by Pacific Hills School on behalf of)
)
)
PAUL MORSINK)
_____)

**PRECEDENTIAL DECISION
CTC No. 1**

WAIVER REQUEST

On or about December 9, 1999, Pacific Hills School, on behalf of Paul Morsink, pursuant to Education Code section 44225(m) and Title 5, *Code of Regulations*, sections 80120-80125, applied for a variable term waiver of the required program of professional preparation for a special education credential pursuant to Education Code section 44265. During its February 2000 meeting, the Committee on Appeals and Waivers recommended denial of the application based on the following findings and determinations.

FINDINGS OF FACT

1. Applicant is pursuing an Education Specialist Instruction Credential: Mild/Moderate Disabilities.
2. Applicant anticipates completing the education specialist program of professional preparation by September 2002.
3. Applicant is employed full-time by Pacific Hills School, an accredited private school located in Los Angeles.
4. Pacific Hills School is a nonprofit organization that educates approximately 275 students in grades 6-12.
5. Pacific Hills School's application to the California Department of Education for nonpublic school certification has been denied because it does not have a full-time credentialed special education teacher on staff.

DETERMINATION OF ISSUES

Pursuant to Education Code section 44225(m) and Title 5, *Code of Regulations*, sections 80120-80125, cause exists to deny the request for waiver of the required program of professional preparation for a special education credential.

1. The Commission restricts the issuance of variable term waivers to those situations in which an applicant demonstrates a compelling educational need.
2. Accordingly, requests for variable term waivers must be supported by documentation that demonstrates a compelling educational need.
3. The present application fails to adequately document a compelling educational need.

WHEREFORE, the application of Pacific Hills School on behalf of Paul Morsink for a waiver of the program of professional preparation pursuant to Education Code section 44265 is DENIED. The Order will be deemed fully executed and adopted by the Commission when signed by the Commission's Executive Director and shall take effect immediately.

IT IS SO ORDERED this _____ day of April 2000.

CALIFORNIA COMMISSION ON TEACHER CREDENTIALING

By: _____

Sam W. Swofford, Ed.D.
Executive Director

**BEFORE THE
COMMISSION ON TEACHER CREDENTIALING
OF THE STATE OF CALIFORNIA**

In the Matter of the Denial of the)
Application for Waiver of CBEST)
submitted by Palmdale Elementary)
School District on behalf of)
)
)
ROSE M. ALCANTARA)
_____)

**PRECEDENTIAL DECISION
CTC No. 2**

WAIVER REQUEST

On or about January 9, 1999, Palmdale Elementary School District, on behalf of Rose M. Alcantara, pursuant to Education Code section 44225(m) and Title 5, *Code of Regulations*, sections 80120-80125, applied for a second waiver of the California Basic Educational Skills Test (CBEST). Education Code section 44252(b) prohibits the Commission on Teacher Credentialing from issuing any credential, permit, certificate, or renewal of an emergency credential to any person to serve in the public schools unless the person has passed the CBEST. During its February 2000 meeting, the Committee on Appeals and Waivers recommended approval of the application based on the following findings and determinations.

FINDINGS OF FACT

1. Applicant is pursuing a 30-Day Substitute Teaching Permit.
2. Applicant has taken the CBEST numerous times but, despite improving her scores, has not achieved a passing score on any one section of the examination.
3. Applicant has submitted sufficient verification of a learning disability.
4. Applicant has made efforts to remediate her learning disability in that she is registered with Students with Disabilities Resources at California State University, Northridge and is taking advantage of the remediation services offered to members of the registry.
5. The improving test scores demonstrate a reasonable likelihood that, with proper accommodation, applicant will pass the CBEST.

DETERMINATION OF ISSUES

Pursuant to Education Code section 44225(m) and Title 5, *Code of Regulations*, sections 80120-80125, cause exists to grant the request for a variable term waiver of the CBEST effective from July 27, 1999 to June 30, 2000.

1. When an applicant produces verifiable evidence of a disability, engages in good faith efforts to remediate the disability, and demonstrates a reasonable likelihood that, with proper accommodation, he or she will pass the CBEST, then subsequent waiver requests will be considered on the merits on a case-by-case basis.
2. Applicant has made a requisite showing that her application for a subsequent waiver of CBEST is warranted.

WHEREFORE, the application of Palmdale Elementary School District on behalf of Rose M. Alcantara for a waiver of the CBEST is GRANTED. The Order will be deemed fully executed and adopted by the Commission when signed by the Commission's Executive Director and shall take effect immediately.

IT IS SO ORDERED this _____ day of April 2000.

CALIFORNIA COMMISSION ON TEACHER CREDENTIALING

By: _____

Sam W. Swofford, Ed.D.
Executive Director

**BEFORE THE
COMMISSION ON TEACHER CREDENTIALING
OF THE STATE OF CALIFORNIA**

In the Matter of the Denial of the)
Application for Waiver of CBEST)
submitted by El Rancho Unified)
School District on behalf of)
)
)
CAROLE MARIE MILLER)
_____)

**PRECEDENTIAL DECISION
CTC No. 3**

WAIVER REQUEST

On or about September 24, 1999, El Rancho Unified School District, on behalf of Carole Marie Miller, pursuant to Education Code section 44225(m) and Title 5, *Code of Regulations*, sections 80120-80125, applied for a second variable term waiver of the California Basic Educational Skills Test (CBEST). Education Code section 44252(b) prohibits the Commission on Teacher Credentialing from issuing any credential, permit, certificate, or renewal of an emergency credential to any person to serve in the public schools unless the person has passed the CBEST. During its December 1999 meeting, the Committee on Appeals and Waivers recommended denial of the application based on the following findings and determinations.

FINDINGS OF FACT

1. Applicant is pursuing an Education Specialist Teaching Credential.
2. Applicant has taken the CBEST numerous times but has not achieved a passing score on one section of the exam.
3. Applicant was issued a variable term CBEST waiver on or about September 1, 1998. The variable term waiver was valid until August 31, 1999.
4. During the period of the variable term waiver, applicant took the CBEST only one time and did not achieve a passing score on the relevant section of the exam.

DETERMINATION OF ISSUES

Pursuant to Education Code section 44225(m) and Title 5, *Code of Regulations*, sections 80120-80125, cause exists to deny the request for waiver of the CBEST.

To assure that applicants for CBEST waivers are diligent in their efforts to pass the CBEST, the Commission requires individuals on variable term CBEST waivers to take the examination at least twice, and obtain a passing score on at least one section, prior to applying for a subsequent variable term CBEST waiver.

WHEREFORE, the application of El Rancho Unified School District on behalf of Carole Marie Miller for a waiver of the CBEST is DENIED. The Order will be deemed fully executed and adopted by the Commission when signed by the Commission's Executive Director and shall take effect immediately.

IT IS SO ORDERED this _____ day of April 2000.

CALIFORNIA COMMISSION ON TEACHER CREDENTIALING

By: _____

Sam W. Swofford, Ed.D.
Executive Director

**BEFORE THE
COMMISSION ON TEACHER CREDENTIALING
OF THE STATE OF CALIFORNIA**

In the Matter of the Denial of the)
Application for Waiver of CBEST)
submitted by EKO Multi-Purpose Center,)
Inc., on behalf of)
)
)
EDDIE CHARLES CONNER)
_____)

**PRECEDENTIAL DECISION
CTC No. 4**

WAIVER REQUEST

On or about September 28, 1999, EKO Multi-Purpose Center, Inc., on behalf of Eddie Charles Conner, pursuant to Education Code section 44225(m) and Title 5, *Code of Regulations*, sections 80120-80125, applied for a fourth variable term waiver of the California Basic Educational Skills Test (CBEST). Education Code section 44252(b) prohibits the Commission on Teacher Credentialing from issuing any credential, permit, certificate, or renewal of an emergency credential to any person to serve in the public schools unless the person has passed the CBEST. During its December 1999 meeting, the Committee on Appeals and Waivers recommended denial of the application based on the following findings and determinations.

FINDINGS OF FACT

1. Applicant is pursuing an Education Specialist Teaching Credential.
2. Applicant has taken the CBEST numerous times but has achieved a passing score on only one section of the exam.
3. Applicant has not passed the CBEST despite having received from the Commission three previous variable term CBEST waivers.

DETERMINATION OF ISSUES

Pursuant to Education Code section 44225(m) and Title 5, *Code of Regulations*, sections 80120-80125, cause exists to deny the request for a fourth variable term waiver of the CBEST.

1. The Commission requires individuals on variable term CBEST waivers to make meaningful progress toward the goal of ultimately passing the CBEST.

2. The Commission expects individuals who have received three variable term CBEST waivers to pass the CBEST without need of a fourth variable term waiver.
3. Leaving aside exceptions not relevant to this application, the Commission shall not issue to any individual a fourth variable term CBEST waiver.

WHEREFORE, the application of EKO Multi-Purpose Center, Inc., on behalf of Eddie Charles Conner for a fourth variable term CBEST waiver is DENIED. The Order will be deemed fully executed and adopted by the Commission when signed by the Commission's Executive Director and shall take effect immediately.

IT IS SO ORDERED this _____ day of April 2000.

CALIFORNIA COMMISSION ON TEACHER CREDENTIALING

By: _____

Sam W. Swofford, Ed.D.
Executive Director

**BEFORE THE
COMMISSION ON TEACHER CREDENTIALING
OF THE STATE OF CALIFORNIA**

In the Matter of the Denial of the)
Application for Waiver of CBEST)
submitted by Lynwood Unified School)
District on behalf of)
)
)
)
MARTA YAGUE)
_____)

**PRECEDENTIAL DECISION
CTC No. 5**

WAIVER REQUEST

On or about September 21, 1999, Lynwood Unified School District, on behalf of Marta Yague, pursuant to Education Code section 44225(m) and Title 5, *Code of Regulations*, sections 80120-80125, applied for a second variable term waiver of the California Basic Educational Skills Test (CBEST). Education Code section 44252(b) prohibits the Commission on Teacher Credentialing from issuing any credential, permit, certificate, or renewal of an emergency credential to any person to serve in the public schools unless the person has passed the CBEST. During its December 1999 meeting, the Committee on Appeals and Waivers recommended denial of the application based on the following findings and determinations.

FINDINGS OF FACT

1. Applicant is pursuing a Sojourn Teaching Credential.
2. Applicant's request for a one-year nonrenewable Sojourn Credential was granted on or about September 1, 1997, and the Sojourn Credential was valid until October 1, 1998.
3. Applicant was issued a variable term CBEST waiver on or about September 1, 1998, which was effective until September 1, 1999.
4. During the period of her variable term CBEST waiver, applicant took the CBEST numerous times. Despite achieving a minimum score (i.e., 37-40 points) on one section of the examination, applicant did not achieve a passing score (i.e., 41 points or higher) on those sections of the examination she had previously not passed.

DETERMINATION OF ISSUES

Pursuant to Education Code section 44225(m) and Title 5, *Code of Regulations*, sections 80120-80125, cause exists to deny the request for a variable term waiver of the CBEST.

1. The Commission requires individuals on variable term CBEST waivers to make meaningful progress toward the goal of ultimately passing the CBEST.
2. The Commission requires individuals on variable term CBEST waivers during the period of the waiver to take the CBEST at least twice and achieve a passing score (i.e., 41 points or higher) on one or more of the sections not previously passed.
3. Achieving a minimum score (i.e., 37-40 points) is not considered a passing score for purposes of securing from the Commission a subsequent variable term CBEST waiver.

WHEREFORE, the application of Lynwood Unified School District on behalf of Marta Yague for a second variable term CBEST waiver is DENIED. The Order will be deemed fully executed and adopted by the Commission when signed by the Commission's Executive Director and shall take effect immediately.

IT IS SO ORDERED this _____ day of April 2000.

CALIFORNIA COMMISSION ON TEACHER CREDENTIALING

By: _____

Sam W. Swofford, Ed.D.
Executive Director

**BEFORE THE
COMMISSION ON TEACHER CREDENTIALING
OF THE STATE OF CALIFORNIA**

In the Matter of the Waiver)
Request by Salinas Union High)
School District on behalf of:)
)
)
)
)
HORIE MARLENY ROBERTS)
Applicant)

PRECEDENTIAL DECISION
CTC No. 6
June 8, 2000

BACKGROUND

In 1998, at the request of Salinas Union High School District, the California Commission on Teacher Credentialing granted Ms. Horie Marleny Roberts (Roberts) a waiver of the California Basic Educational Skills Test (CBEST) pursuant to Education Code Section 44225(m), and Title 5, *California Code of Regulations*, Sections 80120-80125, for the period August 27, 1998 to August 29, 1999, for an emergency 30-Day Substitute Permit. On or about September 28, 1999, Salinas Union High School District, on behalf of Roberts, applied for a second waiver of the CBEST. During its December 1999 meeting, the Commission denied the application.

FACTS

Roberts previously held a waiver for the CBEST requirement for an emergency 30-Day Substitute Permit, but is now pursuing a Single Subject Teaching Credential in Mathematics and Science: Geoscience. Roberts has not taken the CBEST since the issuance of the prior waiver.

DECISION

Pursuant to Education Code section 44225(m) and Title 5, *California Code of Regulations*, sections 80120-80125, cause exists to deny the request for a variable term waiver of the CBEST.

The Commission's general practice, as articulated in Precedential Decision No. 3: In Re: Carole Marie Miller, is that individuals on variable term CBEST waivers must take the examination at least twice, and obtain a passing score of 41 points or higher on at least one section before the Commission will grant an application for a subsequent variable term CBEST waiver. There is no sound reason for allowing an applicant to avoid this rule by applying for a new waiver on a different authorization. The practice should not be changed by the submission of a new waiver application for a different underlying credential or authorization.

We hold that an applicant for a variable term CBEST waiver is required to take the CBEST at least twice and obtain a passing score of 41 points or higher on at least one section prior to applying for a subsequent waiver, even if the subsequent waiver application is for a different underlying authorization.

The application of Salinas Union High School District on behalf of Horie Melany Roberts for a subsequent waiver of the CBEST is DENIED. The Order will be deemed fully executed and adopted by the Commission when signed by the Commission's Executive Director and shall take effect immediately.

IT IS SO ORDERED this 2nd day of December 1999.

ADOPTED AS a Precedential Decision this 8th day of June 2000.

CALIFORNIA COMMISSION ON TEACHER CREDENTIALING

By: _____

Sam W. Swofford, Ed.D.
Executive Director