CODED CORRESPONDENCE

DATE:
7/17/2020

NUMBER:
20-05

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

FROM:
Mary Vixie Sandy
Executive Director
Commission on Teacher Credentialing

SUBJECT: Proposed Amendments and Additions to Title 5 of the California Code of Regulations Pertaining to the Teaching Permit for Statutory Leave

Summary
The Commission on Teacher Credentialing (Commission) proposes to amend Title 5 of the California Code of Regulations (CCR), section 80022 to allow local education agencies (LEAs) to request a Teaching Permit for Statutory Leave (TPSL) to be used when a teacher of record is unable to provide instructional services due to being placed on Military Leave or Administrative Leave.

The Commission is issuing this notice to meet requirements set forth in Government Code section 11346.5.

Notice of Public Hearing
No public hearing is scheduled for this proposal. However, a public hearing may be scheduled for this item if any interested party or his or her duly authorized representative submits in writing a request to hold a public hearing no later than 15 days prior to the close of the 45-day written comment period. (Gov. Code §11346.5(a)(17).)

Written Comment Period
Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by e-mail relevant to the proposed action**.** The written comment period closes at midnight on September 1, 2020.

Comments must be received by that time. You may fax your response to (916) 322-0048; write to the Commission on Teacher Credentialing, attn. Thomas Johnson, 1900 Capitol Avenue, Sacramento, California 95811; or submit an e-mail to Thomas Johnson (tjohnson@ctc.ca.gov) or Joshua Speaks (JSpeaks@ctc.ca.gov).

Informative Digest/Policy Statement

This rulemaking action proposes to amend Title 5 of the CCR section 80022 (f)(19) to allow LEAs to request a TPSL to be used when a teacher of record is unable to provide instructional services due to being placed on Military Leave or Administrative Leave.

Background

In February 2016, the Commission proposed regulations to create the TPSL in order to cover statutory leave assignments. The purpose of the TPSL was to serve as an option for local educational agencies (LEAs) to use when faced with staffing classrooms when the teacher of record is out on extended leave, thereby allowing LEAs the benefit of not having to continually rotate Emergency 30-Day Substitute Teaching Permit holders to cover these assignments. A public hearing was held in June 2016, and the Commission approved the proposed regulations to create the TPSL. The addition of §80022 to Title 5 of the CCR creating the TPSL was approved by the Office of Administrative Law and became effective on August 16, 2016.

Currently, the TPSL allows an individual to provide instructional services beyond the 20 or 30 day substitute teaching limit only when the teacher of record is out on one of the statutory leaves specified in regulations as shown in Table 1 below.

Table 1:

Type of Leave: Sick Leave. **Length of Leave:** As accumulated by teacher. **Statutory Reference:** Education Code section 49978

Type of Leave: Differential Sick Leave. **Length of Leave**: 5 months. **Statutory Reference:** Education Code section 44977.

Type of Leave: Pregnancy Disability Leave Act. **Length of Leave:** 4 months. **Statutory Reference:** Government Code section 12945.

Type of Leave: Family and Medical Leave. **Length of Leave:** 12 workweeks. **Statutory Reference:** Government Code section 12945 and Title 29, U.S. Code section 2601 et seq.

Type of Leave: California Family Rights Act. **Length of Leave:** 12 workweeks. **Statutory Reference:** Government Code section 12945.2

Type of Leave: Industrial Accident and Illness Leave. **Length of Leave:** 60 days. **Statutory Reference:** Education Code section 44984

Recently, stakeholder groups have voiced a desire to add new forms of statutory leave to §80022. Specifically, stakeholders have requested that the TPSL be allowed to cover assignments resulting from teachers of record being placed on extended Military Leave or Administrative Leave.

Currently, Military Leave and Administrative Leave are not recognized in §80022. Consequently, LEAs are faced with the challenge of covering assignments for teachers of record on extended Military Leave or Administrative Leave by continuously rotating through substitute teachers.

The proposed amendments to Title 5 of the CRR §80022 will expand the definition of statutory leave to allow LEAs to request a TPSL when a teacher of record is unable to provide instructional services due to being on extended Military Leave or Administrative Leave, as both of these leave types align with the purpose and intent of the permit as created by the Commission.

Benefits of the Proposed Action:
The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by providing schools with option to use a TPSL in situations where the teacher of record is placed on extended Military Leave or Administrative Leave for periods that extend beyond the service limitation of the Emergency 30-Day Substitute Teaching Permit. The Commission also anticipates that the proposed regulations will result in an increase in the protection of public health and safety, worker safety, or the environment, the prevention of social inequity, or an increase in openness and transparency in business.

Inconsistency with Federal Regulations or Statutes:
None.

Consistency with Existing State Regulations:
As required by Government Code section 11346.5(a)(3)(D), the Commission has conducted an evaluation of these regulations and has determined that they are not inconsistent or incompatible with existing state regulations and has found that these are the only regulations concerning an LEAs ability to cover assignments when their teacher of record is placed on statutory leave.

Plain English Requirement
Commission staff prepared the proposed regulations pursuant to the standard of clarity provided in Government Code section 11349 and the plain English requirements of Government Code sections 11342.580 and 11346.2, subdivision (a)(1). The proposed regulations are written to be easily understood by the persons that will use them.

Documents Incorporated by Reference
Teaching Permit for Statutory Leave, CL-902. (rev. 08/2016.):
https://www.ctc.ca.gov/docs/default-source/leaflets/cl902.pdf?sfvrsn=526b8c66_0

Documents Relied Upon in Preparing Regulations
February 11, 2016 Agenda Item 2A – Proposed Regulations for Teaching Permit for Statutory Leave [for document, send email to ArchiveRequest@ctc.ca.gov]

Approval of February 2016 minutes [for document, send email to ArchiveRequest@ctc.ca.gov]

April 2016 – Initial Statement of Reasons for TPSL [for document, send email to ArchiveRequest@ctc.ca.gov]

April 19, 2016 Coded Correspondence 16-02: Proposed Addition and Amendments to Title 5 of the California Code of Regulations Pertaining to Teaching Permit for Statutory Leave (TPSL): https://www.ctc.ca.gov/docs/defaultsource/commission/coded/2016/1602.pdf?sfvrsn=1f7a6a31_0

August 16, 2016 Text Approved by the Office of Administrative Law and Filed with the Secretary of State [for document, send email to ArchiveRequest@ctc.ca.gov]

August 23, 2016 Coded Correspondence 16-10: Approved Addition and Amendment to Title 5 of the California Code of Regulations Pertaining to Teaching Permit for Statutory Leave (TPSL): https://www.ctc.ca.gov/docs/default-source/commission/coded/2016/1610.pdf

Disclosures Regarding Proposed Actions
The Commission has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 et seq: None.

Cost or savings to state agencies: None

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

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

Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on small business: There may be an effect on small business.

Effect on housing costs: None.

Significant, statewide adverse impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Results of the Economic Impact Analysis [Govt. Code § 11346.5(a)(10)]
The Commission concludes that it is 1) unlikely that the proposal will create any jobs within the State of California; 2) unlikely that the proposal will eliminate any jobs within the State of California; 3) unlikely that the proposal will create any new businesses within the State of California; 4) unlikely that the proposal will eliminate any existing businesses within the State of California; 5) unlikely the proposal would cause the expansion of businesses currently doing business within the State of California; and 6) as stated above, the Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by providing schools with option to use a TPSL in situations where the teacher of record is placed on extended Military Leave or Administrative Leave for periods that extend beyond the service limitation of the Emergency 30-Day Substitute Teaching Permit. The Commission also anticipates that the proposed regulations will result in an increase in the protection of public health and safety, worker safety, or the environment, the prevention of social inequity, or an increase in openness and transparency in business.

Benefits of the Regulation
The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by providing schools with option to use a TPSL in situations where the teacher of record is placed on extended Military Leave or Administrative Leave for periods that extend beyond the service limitation of the Emergency 30-Day Substitute Teaching Permit. The Commission also anticipates that the proposed regulations will result in an increase in the protection of public health and safety, worker safety, or the environment, the prevention of social inequity, or an increase in openness and transparency in business.

Consideration of Alternatives
In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The Commission invites interested parties to submit alternatives with respect to the proposed regulations during the written comment period.

Authority and Reference
Education Code section 44255 authorizes the Commission to adopt these proposed regulation amendments. The proposed amendments implement, interpret, and make specific Education Code section 80022 pertaining to the TPSL.

Contact Persons
Inquiries concerning the proposed action may be directed to:

Thomas Johnson
Commission on Teacher Credentialing
Certification Division
1900 Capitol Avenue
Sacramento, CA 95811-4213
tjohnson@ctc.ca.gov

The backup contact person for inquiries is:

Joshua Speaks
Commission on Teacher Credentialing
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1900 Capitol Avenue
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Availability of Statement of Reasons and Text of Regulations
The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date this notice is published in the Notice of Register, the rulemaking file consists of the Notice of Proposed Rulemaking, the proposed text of regulations, the Initial Statement of Reasons, and an economic impact assessment/analysis contained in the Initial Statement of Reasons. Copies may be obtained by contacting Thomas Johnson at the address or telephone number provided above.

Availability of Changed or Modified Text
If the Commission proposes to modify the actions hereby proposed, the modifications (other than non-substantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

Availability of the Final Statement of Reasons
The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public hearing. Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Thomas Johnson via email at tjohnson@ctc.ca.gov.

Availability of Documents

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations can be accessed through the Commission's website at https://www.ctc.ca.gov/commission/notices/rulemaking.