

Division VIII of Title 5 of the California Code of Regulations

Proposed Addition to Title 5 of the California Code of Regulations Pertaining to the Handling of Applications from Qualified Individuals with Disabilities Initial Statement of Reasons

Rationale for Proposed Regulations

Education Code section 44225 authorizes the Commission on Teacher Credentialing (Commission) to adopt this proposed regulation. The proposed regulation implements, interprets, and makes specific Subsection (b) of Government Code section 12944 pertaining to requests for reasonable accommodation from qualified individuals with disabilities.

This rulemaking action proposes the addition of Section 80002.1 to Title 5 of the California Code of Regulations (CCR) to clarify how applications from individuals with qualified disabilities who request reasonable accommodations will be handled by the Commission.

Objectives and Anticipated Benefits of the Proposed Regulations

The objective of the proposed addition is to clarify how applications from qualified individuals with disabilities who request reasonable accommodations will be handled by the Commission.

The Commission anticipates that the proposed addition will promote fairness and prevent discrimination by ensuring applications from qualified individuals with disabilities who request reasonable accommodations are evaluated properly by staff in the Certification Division. The Commission does not anticipate that the proposed regulations will result in an increase in openness and transparency in government, the protection of public health and safety, worker safety, or the environment, the promotion of social inequity, or an increase in openness and transparency in business.

Rationale for the Proposed Addition of Section 80002.1:

Subsection (b) of Government Code section 12944 reads, "It shall be unlawful for a licensing board to fail or refuse to make reasonable accommodation to an individual's mental or physical disability or medical condition." The terms "medical condition," "mental disability," and "physical disability" are defined in subsections (i), (j), and (m), respectively, in Government Code section 12926.

Although the cited Government Code requires licensing boards to provide reasonable accommodations to qualified individuals with disabilities, the statute does not clarify how requests for reasonable accommodation are handled. The proposed addition of section 80002.1 to Title 5 of the CCR will clarify that Commission staff will be responsible for evaluating applications from qualified individuals who request reasonable accommodations due to a disability.

All applications received at the Commission are evaluated on a case-by-case basis and it is the responsibility of the applicant to provide the documentation necessary to verify his/her

academic qualifications for the requested document [reference subsection (d) of Title 5 of the CCR section 80002]. Due to the broad definitions for mental disability, physical disability, and medical condition provided in Government Code section 12926, the type of documentation required to verify the status of an applicant as a “qualified individual with a disability” is impossible to specify in the proposed regulation section. For some disabilities and conditions, a letter from a licensed physician may be sufficient. For others, additional documentation may be required to verify the applicant meets the definition of one of the specified disabilities or conditions. General guidance will be provided to applicants who intend to apply for a reasonable accommodation. This guidance will be provided by Commission staff in response to email and telephone inquiries. General guidance will also be provided in the form of an information leaflet that will be posted to the Commission’s website.

The applications for reasonable accommodation will be evaluated by staff in the Certification Division who will determine:

- 1) Whether the applicant has submitted sufficient medical documentation to demonstrate a limitation based on a mental or physical disability or medical condition. If the evaluation by staff in the Certification Division determines that additional documentation is required to verify the applicant’s qualifying mental or physical disability or medical condition prior to reaching a decision related to the reasonable accommodation request, the applicant will be notified in writing pursuant to subsection (f) of Title 5 of the CCR section 80002; and
- 2) Whether the request for accommodation is reasonable.

Documents Incorporated by Reference: None

Documents Relied Upon in Preparing Regulations: None

Economic Impact Assessment/Analysis

Education Code section 44225 authorizes the Commission on Teacher Credentialing (Commission) to adopt this proposed regulation. The proposed regulation implements, interprets, and makes specific Subsection (b) of Government Code section 12944 pertaining to requests for reasonable accommodation from qualified individuals with disabilities. The purpose of the proposed addition is to clarify how applications from qualified individuals with disabilities will be handled by the Commission.

In accordance with Government Code section 11346.3(b), the Commission has made the following assessments regarding the proposed regulation:

Creation or Elimination of Jobs Within the State of California

The proposed addition to Title 5 of the CCR clarifies how applications from qualified individuals with disabilities who request reasonable accommodations will be handled by the Commission. Clarifying how the applications will be handled by the Commission will not create or eliminate jobs in California.

Creation of New or Elimination of Existing Businesses Within the State of California

The proposed addition to Title 5 of the CCR clarifies how applications from qualified individuals with disabilities who request reasonable accommodations will be handled by the Commission. Clarifying how the applications will be handled by the Commission will not create or eliminate existing businesses in California.

Expansion of Businesses or Elimination of Existing Businesses Within the State of California

The proposed addition to Title 5 of the CCR clarifies how applications from qualified individuals with disabilities who request reasonable accommodations will be handled by the Commission. Clarifying how the applications will be handled by the Commission will not cause the expansion or elimination of existing businesses in California.

Benefits of the Regulations

The Commission anticipates that the proposed addition will promote fairness and prevent discrimination by ensuring applications from qualified individuals with disabilities who request reasonable accommodations are evaluated properly by staff in the Certification Division. The Commission does not anticipate that the proposed regulations will result in an increase in openness and transparency in government, the protection of public health and safety, worker safety, or the environment, the promotion of social inequity, or an increase in openness and transparency in business.

Consideration of Alternatives

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the 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 provision of law.

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

Evidence Relied Upon to Support the Initial Determination That the Regulation Will Not Have a Significant Adverse Economic Impact on Business: The proposed regulations will not have a significant adverse economic impact upon business. The proposed regulations pertain only to the handling of applications from qualified individuals with disabilities who request reasonable accommodations.