

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 Notice of Proposed Rulemaking

The Commission on Teacher Credentialing (Commission) proposes to take the regulatory action described below after considering all comments, objections, and recommendations regarding the proposed action.

Public Hearing

A public hearing on the proposed actions will be held:

February 8, 2019

8:30 a.m.

**Commission on Teacher Credentialing
1900 Capitol Avenue
Sacramento, California 95811**

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 5:00 p.m. on January 7, 2019. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 322-0048; write to the Commission on Teacher Credentialing, attn. Tammy A. Duggan, 1900 Capitol Avenue, Sacramento, California 95811; or submit an email at tduggan@ctc.ca.gov.

Any written comments received 15 days prior to the public hearing will be reproduced by the Commission's staff for each member of the Commission 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 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.

Informative Digest/Policy Statement Overview

Summary of Existing Laws and Regulations

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

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 individuals who request reasonable accommodations due to a disability. Specifically, 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 and 2) whether the request for accommodation is reasonable.

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.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The Commission has determined that the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Commission has concluded that there is not yet a 5 CCR section that addresses how applications from qualified individuals with disabilities who request reasonable accommodations will be handled.

Documents Incorporated by Reference: None

Documents Relied Upon in Preparing Regulations: None

Disclosures Regarding the Proposed Actions

The Commission has made the following initial determinations:

Mandate to local agencies or school districts: None.

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

Cost or savings to any state agency: None.

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

Significant effect on housing costs: None.

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

Cost to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of the Government Code: 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.

Statement of the Results of the Economic Impact Assessment [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; and 5) unlikely the proposal would cause the expansion of businesses currently doing business within the State of California.

Benefits of the Proposed Action: 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.

Effect on small businesses: 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.

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.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the public hearing.

Contact Person/Further Information/Availability of the Initial Statement of Reasons and Text of Proposed Regulations

General or substantive inquiries concerning the proposed action may be directed to Tammy A. Duggan by telephone at (916) 323-5354 or Tammy A. Duggan, Commission on Teacher Credentialing, 1900 Capitol Avenue, Sacramento, CA 95811. General question inquiries may also be directed to David Crable at (916) 323-5119 or at the address mentioned in the previous sentence. 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. This information is also available on the Commission's website at www.ctc.ca.gov. In addition, all the information on which this proposal is based is available for inspection and copying.

Availability of the Rulemaking File

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. Copies may be obtained by contacting Tammy Duggan at the address or telephone number provided above.

Modification of Proposed Action

If the Commission proposes to modify the actions 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.

Availability of 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 Tammy A. Duggan at (916) 323-5354.

Availability of Documents on the Internet

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through the Commission's website at www.ctc.ca.gov.