

Division VIII of Title 5 of the California Code of Regulations

Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Cost Recovery Fees for Extraordinary Accreditation Activities

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 email relevant to the proposed action. The written comment period closes at 5:00 p.m. January 21, 2019. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 327-3165; write to the Commission on Teacher Credentialing, attn. Kathryn Polster, 1900 Capitol Avenue, Sacramento, California 95811; or submit an email to kpolster@ctc.ca.gov, or Michelle Bernardo at mbernardo@ctc.ca.gov.

Any written comments received by the closing of the public comment period 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 (EC) section 44225 authorizes the Commission to adopt the proposed regulation amendments. The proposed regulations implement, interpret, and make specific EC section 44374.5 pertaining to fees related to extraordinary accreditation activities.

Information Digest/Policy Statement Overview

Summary of Existing Laws and Regulations

This rulemaking action proposes amendments to sections 80691 and 80692 of Title 5 of the California Code of Regulations (CCR) related to cost recovery fees for extraordinary accreditation activities. The

purpose of the fee schedule is to recover the costs of extraordinary staff time and work that is created as a result of a current or prospective educator preparation program requiring consultation or additional specialized attention outside of regularly scheduled accreditation activities. As a result of the addition of EC section 44374.5 which authorized the Commission to develop and implement a cost recovery plan for extraordinary accreditation activities the initial cost recovery fee regulations went into effect October 30, 2013 after Commission approval on September 27, 2013.

The Budget Act of 2015 (Assembly Bill 93, Chap. 10, Stats. 2015) provided a one-time General Fund appropriation of \$3.467 million for the Streamline and Strengthen the Accreditation Process (SSAP) which included funds to support a comprehensive review and revision of educator preparation including the development and implementation of significant improvements to streamline and strengthen the Commission's accreditation system. Significant changes to the accreditation system's processes and terminology have resulted in the need to amend sections 80691 and 80692 of Title 5 of the CCR related to cost recovery fees for extraordinary accreditation activities so that the regulations are up to date and aligned with the Commission's processes and the governing statutes.

At the December 2016 Commission meeting staff proposed amendments to the fee schedule and the Commission directed staff to begin the regular rulemaking process. A Coded Correspondence and a notice of proposed amendments were published on the Commission webpage on April 14, 2017. Additionally, the Office of Administrative Law (OAL) published the notice on their website. The proposed amendments included two fee changes and general clean-up to align terms with the Commission's restructured accreditation system.

As part of the regulatory process, staff engaged in several discussions with OAL and responded to their questions about the proposed regulations. During these discussions it became apparent to Commission staff that the regulatory process for the proposed cost recovery regulations was extraordinarily complicated. This was due in part to the extensive changes implemented in processes and procedures that stem from the strengthening and streamlining accreditation project. In addition, the current regulations incorporated by reference specific Accreditation Handbook chapters requiring interested parties to have to consult both sources. After discussions with OAL and upon reflection, staff realized the need to identify a new approach that would be more transparent and less burdensome to readers.

Additionally, in summer 2017, while the staff was preparing the regulations package for submission to OAL, the Council for the Accreditation of Educator Preparation (CAEP) changed their fee structure which resulted in an additional \$2,500 fee for the Commission for each joint review conducted with educator preparation programs in California. National accreditation is voluntary in California. The activity is in addition to the regularly scheduled activities and is defined as an extraordinary fee. In response, at the September 2017 Commission meeting, the Commission took action to include a new \$2,500 fee for joint CAEP site visits and directed staff to include this fee in this regulations packet.

As a result of these factors, the 2017 rulemaking packet was withdrawn. After withdrawing the previously amended Cost Recovery Fees for Extraordinary Accreditation Activities regulations from review by the OAL, Commission staff attended additional training with OAL staff and received

clarification on the best methods for updating regulations in light of the significant overhaul to the accreditation system.

The amendments in this proposal have been updated and rewritten for clarity and to reflect the changes to the accreditation system, including a fee for joint accreditation visits with other accrediting entities.

Objectives and Anticipated Benefits of the Proposed Regulations

The objective of the proposal is to amend the regulations that permit the Commission to continue to recover costs incurred for extraordinary accreditation activities, while bringing the regulations up to date and in alignment with the new accreditation process and improving the clarity of the regulatory language.

The Commission anticipates that the proposed amendments will benefit students attending public schools in the State of California by providing resources to perform the Commission’s statutorily-mandated accreditation duties, thereby ensuring high quality educator preparation for the instruction of California K-12 public school students. Amendments will also provide a way for prospective institutions to pay their IIA fees as they move along, paying for services rendered rather than having to pay all IIA fees at the start of the approval process with the possibility of not completing the process successfully. Finally, interested parties will benefit by having a clearer set of regulations to refer to which aligns the terminology and process of the updated Accreditation System and no longer requires referencing secondary sources (articles incorporated by reference).

The proposed regulations will promote fairness and prevent discrimination by specifying that the cost recovery fees apply to all institutions offering or proposing to offer Commission-approved programs, regardless of agency type. The proposed regulations will also increase openness and transparency by clarifying the cost recovery fees associated with IIA, new program review and accreditation activities in excess of the regularly scheduled data reports, document reviews, and accreditation site visits.

The Commission does not anticipate that the proposed regulations will result 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.

Overview of proposed amendments:

The proposed regulations have been updated and rewritten for clarity and to align terminology and fee structure with the new changes to the accreditation system, including a fee for joint accreditation visits with other accrediting entities, removal of the in-kind process, removing obsolete fees, and general language cleanup.

Articles Incorporated By Reference

Currently, regulations have several chapters of the Commission’s Accreditation Handbook incorporated by reference and interested parties have to consult both the regulations and the incorporated handbook chapters. The updates to the Accreditation System have necessitated updates to the Accreditation Handbook. In order to align terminology between the new system and proposed

regulations all of the article incorporated by reference in the current regulations have been removed. The Commission believes this approach is more transparent and less burdensome on the readers. Rather than amending the current cost recovery sections with articles incorporated by reference, the Commission is proposing to amend the current accreditation fee regulations by providing greater detail and terminology alignment in the definitions section of the text and removing the articles incorporated by reference.

Definitions Amendments

The definitions section of the regulations has been updated to reflect the new accreditation system and eliminate language that no longer applies to the current system, as well as to clearly define the various types of accreditation team site visits and types of documentation that must be submitted throughout the accreditation cycle.

Fee Structure Amendments for Initial Program Review (IPR)

Amendments to the regulations are being proposed due to the changes in the accreditation system and efforts to update and revise program standards. Currently, the cost recovery fee structure is based on the number of standards required for the submission of a new program. Since program standards have been streamlined and strengthened, the number of standards in a program is no longer indicative of the complexity of elements within the program standards or the efforts needed to review the program. Proposed amendments include categorizing standards based on the type of authorization that results from them (preliminary credential, clear credential, or added authorization) which provides the flexibility needed to continually improve standards without having to amend the fee structure or regulations.

Fee Structure Amendments for Initial Institutional Approval (IIA)

The previous flat fee of \$2,000 for IIA covered the review of preconditions and Common Standards as well as time consulting with prospective institutions and reviewing their documentation. In the previous IIA process, there was a single Commission decision point. However, the current IIA process is now much more rigorous and includes multiple stages for which documentation is submitted for review and action by the Commission. This new more rigorous review format requires a significant amount of additional staff time. Specifying the fees for specific IIA activities not only recovers the cost of staff time and reviewer's travel for these extraordinary accreditation activities, but it is more reflective of the various stages of the new system. Instead of a flat \$2,000 fee the new fee structure more appropriately reflects the work involved in providing assistance to institutions before during and after Accreditation 101, reviewing and approving the eligibility requirements, the Initial Program Review process. Finally, the proposed regulations allow for a \$1,000 per site visit team member for initial focused site visits for provisionally approved institutions. The Commission has historically charged \$1,000 per site visit team member for focused site visits, however the regulations did not explicitly explain the difference between an accreditation focused site visit for an institution already approved by the Commission and an initial focused site visit for a provisionally approved institution.

Fee Structure Amendments for Joint Site Visits

At the September 2017 Commission meeting the Commission approved adding a new fee for joint site visits with CAEP as a result of changes that CAPE made to their annual dues formula. CAEP's

restructuring of their fees requires the Commission to pay dues which have increased \$2,500 per institution requesting a joint visit. Since joint visits are not a requirement of the accreditation system for the state of California the Commission approved adding the \$2,500 dues to the cost recovery regulations for institutions choosing to have a joint visit.

Deleted Fees

The program assessment process has been replaced by program review and streamlined to have only one review session. For this reason, fees associated with more than three reviews are no longer necessary and are proposed to be deleted from the fee structure.

When the fee structure was initially created an in-kind payment process was allowed as a way to ease the financial burden of IPR. Approved institutions seeking a new program approval could pay in-kind by sending two Board of Institutional Review (BIR) trained members to the Commission to review two documents each. The in-kind payment option has not been utilized by very many institutions and staff are proposing eliminating the in-kind payment structure entirely.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The Commission has determined that the proposed regulation amendments are not inconsistent or incompatible with existing regulations. There are no other 5 CCR sections that specify cost recovery fees for extraordinary accreditation activities associated with Commission-approved programs.

Disclosures Regarding the Proposed Actions

The Commission has made the following initial determinations:

Local Mandate: 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 section 17500) of the Government Code.

Fiscal Impact:

Costs to any local agency or school districts requiring reimbursement pursuant to Government Code section 17500 et seq.

School districts, county offices of education and charter schools that are not currently approved to offer educator preparation programs (i.e. that elect to offer a program(s)) will be required to submit fees to cover the cost of IIA and Initial Program Review (IPR). Currently approved institutions pursuing additional Commission-approved programs will also be subject to IPR fees. Institutions may avoid all Cost Recovery Fees for Extraordinary Accreditation Activities (IPR, review of late submissions, etc.) provided new programs are not proposed and accreditation activity requirements are followed in a timely manner.

Cost or savings to any state agency

None.

Other non-discretionary costs or savings imposed upon local agencies

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

The proposal will not have an impact.

Statement of the Results of the Economic Impact Assessment:

The Commission concludes that it is:

- 1) Unlikely that the proposal will create any jobs within the State of California, as there are already 146 institutions operating teacher preparation programs within the state. As new programs and institutions are approved new jobs may be created, however the Commission is unable to determine whether or not jobs will be created and believes that the number of jobs created would be minimal.
- 2) Unlikely that the proposal will eliminate any jobs within the State of California as there is currently a teacher shortage and teacher preparation programs are busy preparing teachers to help with the shortage. Approved programs can avoid cost recovery fees entirely and the fees for new programs and institutions is not large enough to impact the number of jobs an institution has available.
- 3) Unlikely that the proposal will create any new businesses within the State of California as the regulations apply to currently approved institutions or to institutions seeking approval which must already have regional accreditation and are only expanding their business into teacher preparation.
- 4) Unlikely that the proposal will eliminate any existing businesses within the State of California as there is currently a teacher shortage and teacher preparation programs are busy preparing teachers to help with the shortage. Approved programs can avoid cost recovery fees entirely and the fees for new programs and institutions is not large enough to impact the ability of an institution to remain open.
- 5) Possible the proposal would cause the expansion of businesses currently doing business within the State of California. The current and proposed amendments to regulations apply to currently approved institutions or to institutions seeking approval which must already have regional accreditation and are only expanding their business into teacher preparation in California. The Commission is unable to determine whether or not any significant number of businesses would expand into California.
- 6) The Commission anticipates that the proposed amendments will benefit the health and welfare of California residents, as summarized in the Objectives and Anticipated Benefits of the proposed regulations above, by providing resources to perform the Commission's statutorily-mandated accreditation duties, thereby ensuring high quality educator preparation for the instruction of California K-12 public school students. The proposed regulations will promote fairness and prevent discrimination by specifying that the cost recovery fees apply to all institutions offering or proposing to offer Commission-approved programs, regardless of agency type. The proposed regulations will also increase openness and transparency by clarifying the cost recovery fees associated with IIA, new program review and accreditation activities in excess of the regularly scheduled data reports,

document reviews, and accreditation site visits. The Commission does not anticipate that the proposed regulations will result in the protection of worker safety, or the environment, the prevention of social inequity or an increase in openness and transparency in business.

Cost impacts on a representative private person or business

Cost impacts to a representative business would be minimal. Non-Commission approved private/independent education entities that elect to offer a program(s) will be required to submit fees to cover the cost of IIA and IPR. Currently approved institutions pursuing additional Commission-approved programs will also be subject to IPR fees. Institutions may avoid all Cost Recovery Fees for Extraordinary Accreditation Activities (IPR, review of late submissions etc.) provided new programs are not proposed and accreditation activity requirements are followed in a timely manner. The Commission is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.

Business Report

The proposal does not require a report to be made by any businesses.

Effect on Small Business

The proposed regulations will not have a significant adverse economic impact upon small business. The proposed regulations apply only to institutions electing to offer Commission-approved and accredited educator programs or existing Commission-approved educational entities that have not met the requirements of the Accreditation System.

Considerations of Alternatives

The Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention 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 person 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

General or substantive inquiries concerning the proposed action may be directed to Kathryn Polster by telephone at (916) 445-0229, by mail at Commission on Teacher Credentialing, 1900 Capitol Avenue, Sacramento, CA 95811, or by email to Kathryn Polster kpolster@ctc.ca.gov or Michelle Bernardo mbernardo@ctc.ca.gov. General question inquiries may also be directed to the addresses mentioned above. 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 <http://www.ctc.ca.gov/notices/rulemaking.html>. In addition, all the information on which this proposal is based is available for inspection and copying.

Availability of Statement of Reasons and Text of Proposed 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 Kathryn Polster or Michelle Bernardo 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 non-substantial 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, following the conclusion of the public hearing. Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Kathryn Polster at (916) 445-0229.

Availability of Documents on the Internet

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 <http://www.ctc.ca.gov/notices/rulemaking.html>