
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No: AB 1219 **Hearing Date:** July 10, 2019
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Subject: Teacher credentialing: certificated employee assignment monitoring

SUMMARY

This bill requires the Commission on Teacher Credentialing (CTC) to implement the State Assignment Accountability System (CalSAAS) for annual monitoring of teacher misassignments in all public schools.

BACKGROUND

Existing law:

- 1) Requires each county superintendent of schools to monitor and review school district certificated employee assignment practices, as follows:
 - a) Annually monitor and review schools and school districts that are likely to have problems with teacher misassignments and teacher vacancies, based on past experience or other available information.
 - b) Annually monitor and review schools ranked in deciles 1 to 3 of the Academic Performance Indicator (API) if those schools are not currently under review through a state or federal intervention program. If a review finds that a school has no teacher misassignments or teacher vacancies for two consecutive years, permits the next review to occur on a four year cycle, unless the school is believed to be likely to have problems with misassignment, based on past experience.
 - c) Annually monitor and review all other schools on a four-year cycle.
- 2) Requires each county superintendent of schools to investigate school and district efforts to ensure that credentialed teachers are properly assigned. (Education Code 44258.9)
- 3) Makes the CTC responsible for the monitoring and review of those counties or cities and counties in which there is a single school district.
- 4) Requires county superintendents to submit an annual report to the CTC and the California Department of Education (CDE) which summarizes the results of all assignment monitoring and reviews.

- 5) Requires the CTC to submit biennial reports to the Legislature concerning teacher assignments and misassignments based, in part, on the annual reports of the county superintendents of schools.
- 6) Requires the CTC to establish reasonable sanctions for the misassignment of credential holders, after engaging in activities to inform administrators, teachers, and other personnel about the regulations and statutes affecting the assignment of certificated personnel.
- 7) Establishes certain procedures and requirements with respect to certificated employees who are misassigned, as follows:
 - a) Requires a certificated person who has been misassigned, after exhausting existing local remedies, to notify the county superintendent of schools in writing of the illegal assignment.
 - b) Requires county superintendent of schools, within 15 working days, to advise the affected certificated person concerning the legality of his or her assignment.
 - c) Prohibits adverse action taken against a certificated person who files a notification of misassignment with the county superintendent of schools, and nullifies any performance evaluation during the misassignment.
 - d) Nullifies any performance evaluation of an employee during a period of the misassignment.
- 8) Requires the county superintendent of schools to notify a certificated school administrator responsible for assignments of a misassignment, and advise him or her to correct the assignment within 30 calendar days.
- 9) Requires the county superintendent to notify the CTC of the misassignment if the certificated school administrator has not corrected the misassignment within 30 days of the initial notification, or has not described in writing the extraordinary circumstances which make the correction impossible.
- 10) Requires the county superintendent of schools to notify the superintendent of a school district in which 5 percent or more of all certificated teachers in the secondary schools are found to be misassigned to advise him or her to correct the misassignments within 120 calendar days.
- 11) Requires the county superintendent of schools to notify the CTC of the misassignments if the school district superintendent has not corrected the misassignments within 120 days of the initial notification, or has not described in writing to the county superintendent the extraordinary circumstances which make the correction impossible.
- 12) Authorizes the Superintendent of Public Instruction (SPI) to submit a summary of the reports submitted by county superintendents to the Legislature, and authorizes the Legislature to hold hearings on the findings.

- 13) Provides for a number of “local assignment options” which school districts may use to assign a teacher outside of their authorization. (EC 44256(b), 44258.2, 44258.7(c) and (d), 44263)
- 14) Requires that teachers in charter schools hold a CTC certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. Requires that these documents be maintained on file at the charter school and be subject to periodic inspection by the chartering authority. States the intent of the Legislature that charter schools be given flexibility with regard to noncore, non-college preparatory courses.
- 15) Requires teachers in countywide charter schools to be required to hold a CTC certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold.
- 16) Requires that these documents be maintained on file at the charter school and be subject to periodic inspection by the chartering authority. (EC 47605.6(l))
- 17) Authorizes complaints concerning vacancies and misassignments to be submitted through the Uniform Complaint Procedures. (EC 35186)
- 18) Requires the CTC to establish a non-personally identifiable educator identification number for each educator to whom it issues a credential, certificate, permit, or other document authorizing that individual to provide a service in the public schools.
- 19) Establishes, through regulations, a process for the CTC to use to compel compliance with statute on misassignments, including, as a final step, the option to take adverse action against the credentials of individuals found to be responsible. (CCR Title 5 80339.1-80339.5)
- 20) Defines, for purposes of the SARC, a “misassignment” to mean the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential, or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold. (EC 33126)
- 21) Defines, for purposes of the SARC, a “vacant teacher position” to mean a position to which a designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position of which a single-designated certificated employee has not been assigned at the beginning of a semester for an entire semester. (EC 33126)
- 22) Requires the SARC to include information on the school’s total number of fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, any assignment of teachers outside their subject areas of competence, misassignments, including misassignments of teachers of English learners, and the number of vacant teacher positions for the most recent three-year period. (EC 33126)

- 23) Requires LCAPs to include information on the degree to which the teachers of the school district are appropriately assigned and fully credentialed. (EC 52060).

ANALYSIS

This bill:

- 1) Repeals the existing statutes related to annual monitoring and review of school district certificated employee assignment practices, priorities, report on misassignments and vacancies, and sanctions for misassignments.
- 2) Requires the CTC to administer the State Assignment Accountability System (CalSAAS) as follows:
 - a) Defines LEA to include a school district, county office of education, charter school, or state special school.
 - b) Defines “monitoring authority” to mean:
 - i) The county office of education for school districts in the county, programs operated by the county office of education, and any charter school site within the county, except for a resource center.
 - ii) The CTC for a school district or county office of education that operates within a city or county in which there is a single school district and the state special schools.
 - c) Defines “vacant position” to mean a position to which a single-designated certificated employee has not been assigned at the beginning of the year or semester.
 - d) Requires the CTC and CDE to enter into a data sharing agreement to provide the CTC with employee assignment data necessary to annually identify misassignments and vacant positions at LEAs and support reporting consistent with the state plan required by the federal Every Student Succeeds Acts (ESSA).
 - e) Allows the CTC to engage in activities designed to inform school administrators and other personnel at county offices of education of regulations and statutes affecting employee assignments.
 - f) Requires the CTC to use the data provides by CDE to produce an initial data file of vacant positions and certificated employee assignments that do not have a clear match of credential to assignment. The CTC shall notify LEAs and monitoring authorities of the opportunity to access the system and review the data.
 - g) Allows LEAs to do any of the following within 60 days of being notified by the CTC:

- i) Access the initial data file to determine if each employee included in the file is otherwise legally authorized for the assignment.
 - ii) Submit electronic documentation to the CTC and monitoring authority showing that the employee is otherwise legally authorized for the assignment.
 - iii) Submit electronic documentation to the CTC and monitoring authority showing that a position identified as vacant was miscoded.
- h) Requires a monitoring authority to access the CalSAAS to review the initial data file and any additional information submitted by LEAs and make a determination of potential misassignments and vacant positions within 90 days of the CTC's notification.
- i) Requires the CTC to report on the monitoring authority's determination for a given year and, when identifying misassignments, to identify an employee as correctly assigned when the employee holds the certificate or credential required by the CTC for that assignment.
- j) Prohibits LEAs from using CalSAAS data for evaluating certificated employee performance or making employment decisions.
- k) Specifies that if an employee is required by an LEA to accept an assignment for which the employee has no legal authorization, both of the following shall occur:
 - i) An employee of a school district or a charter school shall notify the district superintendent or charter administrator in writing.
 - ii) If no action is taken, the employee shall notify the county superintendent of schools or the chartering authority in writing.
- l) Prohibits an LEA from taking adverse action against an employee who files a notice of misassignment and nullifies the performance evaluation of the misassigned teacher.
- m) Specifies that the final data generated by the CalSAAS for 2019-20 shall be nonconsequential and for information purposes only.
- n) Commencing with the 2020-21 school year, following the 90 day review period described above, the CTC shall do the following:
 - i) Make annual CalSAAS employee misassignment and vacant position data publicly available in a searchable format online.
 - ii) Ensure that charter school data is distinguishable from traditional public school data.

- iii) Maintain each year's data for no less than five years.
 - iv) Provide CDE with annual data on the total number of misassignments at the schoolsite, school district, and county level.
 - v) Ensure that the publicly available misassignment data reported from CalSAAS not include personally identifiable information of employees.
- o) Allows the CTC to promulgate regulations defining standards for LEAs that consistently misassign employees, including what sanctions to impose.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "In the historic civil rights victory, *Williams v. California*, the court ruled that all students have a fundamental right to an equal education, and that the state is responsible for providing all students with the basic resources they need to learn – this includes qualified teachers. The *Williams* settlement required the state to monitor that teachers have the appropriate credentials for the courses they are teaching. However, only the lowest performing schools at the time were required to be monitored for misassignments annually. The rest of the schools are currently monitored on a four-year cycle, with only a quarter of schools being monitored every year.

AB 1219 will uphold the fundamental right of students to have qualified teachers by requiring teacher assignments in all schools to be reviewed annually. This bill will provide advocates and lawmakers the ability to hold schools accountable for failing to provide students with the quality education guaranteed by our state Constitution."

- 2) **Teacher assignment monitoring basics.** Monitoring assignments of teachers involves reviewing all certification and assignment records for all certificated staff in the public schools of California. The monitoring is necessary to determine if educators hold the appropriate credential and authorization for the instruction they are providing or if they are otherwise legally authorized to serve via a permit, waiver, or other local assignment option.

County Superintendents of Schools must annually report the results of assignment monitoring activities conducted for approximately one-quarter of all certificated staff in each county throughout the state. At the end of a four-year cycle, all certificated staff assignments in California are monitored for all schools, districts, and county offices of education. As a result of the *Williams v. State of California* settlement, additional annual monitoring and data collection is conducted for schools previously ranked in the lowest three deciles of the 2012 API.

The term "teacher misassignment" refers to the placement of certificated staff in a teaching or services position for which the educator does not hold a valid and legally recognized certificate, credential, permit, or waiver with an appropriate authorization for the assignment or is not otherwise legally authorized for the

assignment under another section of statute or regulation. The term “teacher vacancy” refers to certificated positions for which a single designated employee has not been assigned within the first twenty working days after the first day of class for students for the entire year or if it is a one-semester course, then for the entire semester.

- 3) ***Teacher misassignments in California.*** Under current law, the CTC must submit biennial reports to the Legislature on the misassignment of teachers in California. The December, 2017 report, which draws on data from the four academic years between 2011 and 2015, included the following findings:
- a) *Misassignment data sensitive to changes in monitoring, but also policy changes.* Significant changes in misassignment are sometimes due to changes in definitions of compliance. A change in the requirements for teaching children on the Autism spectrum, for example, resulted in significant numbers of misassignments. But improved compliance monitoring, for example in the case of qualifications to teach English learners required by the *Williams* settlement, also led to major improvements in assignments.
 - b) *Significant overall decrease in misassignments.* There was an overall decrease of 28 percent in teaching misassignments for all schools in California when comparing the report cycles of 2007-11 and 2011-15. In total, a reduction of 9,027 teaching misassignments was achieved.
 - c) *English learner misassignments declined significantly.* The total number of English learner instruction misassignments decreased by almost 84 percent between the 2007-11 and 2011-15 report cycles. The *Williams* settlement created additional emphasis on the review of the English learner instruction assignments. The unauthorized assignment of teachers for English learner students rose more than an 88 percent increase during the 2003-07 monitoring cycle compared to 1999-2003, and has since declined in the subsequent two cycles.
 - d) *Misassignments are concentrated in special education, elective courses, and “other” courses.* Special education misassignments comprised 27 percent of the total. Following legislation regarding students on the Autism spectrum and changes in special education certification, there was an increased focus after 2008 on training how to monitor and identify special education misassignments based on disability. The CTC is currently engaged in a number of changes to special education credentials which may have the effect of reducing misassignments, including embedding the existing Physical and Health Impairments and Language and Academic Development specialty credentials into the Mild/Moderate and Significant Support needs specialty areas, leaving fewer credentials.

20 percent of misassignments are in elective courses, which include a wide variety of classes which do not fall directly within one of the statutory single subjects. The third highest content area for misassignments was “Other,” which accounted for 14 percent of the total. The “Other” category

includes subjects such as Health, Home Economics, and Industrial Technology Education as well as non-traditional education settings and content such as Adult Education, Career Technical Education (CTE), and the Reserve Officers' Training Corps (ROTC).

- e) *Misassignments concentrated in middle and high schools.* Likely connected to the higher rate of misassignment in elective courses, over 84 percent of all teaching misassignments were found to occur at the secondary school level (middle and high schools), with approximately 49 percent of misassignments identified at the high school level.
 - f) *Vacancies on the rise?* While the number of vacancies reported has decreased significantly since 2007-08, vacancy data for the last two years shows the totals increasing again. The total teacher vacancies doubled in the final year of the report to a total of 617 vacancies, possibly a result of the statewide teacher shortage.
 - g) *Similar patterns for API decile 1-3 schools.* For the schools ranked in the lowest three deciles on the API in the 2013-14 and 2014-15 (using the 2012 base API) misassignment was similar to other schools. There was a total decrease of 33.4 percent in the number of misassignments between 2013-14 and 2014-15. Similar patterns of concentration in middle and high schools, special education were reported. Large declines in misassignment in special education and core subjects were reported. More than 99 percent of classrooms with an EL student population of 20 percent or more were taught by an appropriately EL authorized teacher. There was also a significant increase in the use of local assignment options, as well as reported vacancies.
- 4) ***The state's ESSA plan already commits to using the data system established by this bill.*** In April of 2018, the SBE approved a plan for reporting to the federal government regarding the "equity gap" in teacher qualifications and experience for low-income and minority children enrolled in schools assisted under Title I, including "ineffective teachers," and those teaching "out-of-field." In this plan, an ineffective teacher is defined as either meeting the definition of a misassigned teacher teaching without a credential. "Out-of-field" teachers are defined as those who are credentialed but have not yet demonstrated subject matter competence in the subject area or for the student population to which they are assigned.

The state's ESSA plan commits to using data generated by the automated system this bill proposes, for federal reporting: "No later than spring 2019, the CDE will use data collected via the CALPADS, data collected by the CTC, and CalEdFacts to create data profiles that provide information regarding the rates at which low-income and minority children are taught by teachers in the credential and assignment statuses recognized by state law, consistent with the ineffective teacher definition, out-of-field teachers, and inexperienced teachers." Data will also be provided to the SBE and posted on the CDE website.

- 5) ***There is little evidence that charter school teacher assignments have ever been systematically monitored.*** Current law requires that teachers in charter schools hold a certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold and expresses the intent of the Legislature that charter schools be given flexibility with regard to noncore, non-college preparatory courses. While current law does not define what noncore, non-college preparatory courses include, the CTC indicates that it means courses taught not in core subjects (not in English language arts, mathematics, history-social science, and science), courses that are not approved as meeting the admissions criteria for the University of California and the California State University (known as “A-G” courses), and courses not labeled as Advanced Placement or International Baccalaureate.

For monitoring purposes, existing law requires that the appropriate documents be maintained on file at the charter school and be subject to periodic inspection by the chartering authority, but does not specify how frequently this is to occur. The CDE is responsible for monitoring of misassignments at charter schools authorized by the SBE.

Based on sample data of specific charter schools, it appears that charter school teacher misassignments have never been monitored in a meaningful or systematic way. Given that current law is unclear about which charter school teachers must hold certificates, what the equivalent of a certificate required by a public school teacher means, and how often charter school authorizers must verify charter school teacher assignments, the Committee should consider whether including all charter school course assignments in CalSAAS immediately strikes the right balance of charter school accountability and autonomy. If a clear definition of “noncore, non-college preparatory” were codified, would the number of teacher misassignments at charter schools go down? If so, by how much, and how would that compare to the number of misassignments at traditional public schools?

- 6) ***Should the role of county offices of education be expanded?*** As currently drafted, this bill would make county offices of education the monitoring authority of CalSAAS for school districts, county office of education programs, and charter schools. The CTC would monitor single-district counties and state special schools. Currently, if there is a teacher misassignment issue at a school, the county works with the school district to resolve the issue. For charter schools, the charter authorizer, the entity responsible for overseeing all other compliance of the school, is responsible for oversight. Given the existing relationship that a charter school has with its authorizer, the Committee may wish to consider whether the bill as currently drafted is the most effective way of ensuring charter school compliance.

SUPPORT

Commission on Teacher Credentialing (sponsor)
California Teachers Association

OPPOSITION

California Charter Schools Association

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