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Change in Certificated Assignment Monitoring and Data Reporting in *Education Code Section 44258.9* as a Result of the *Williams* Lawsuit Settlement

Williams, et al., vs. State of California, et al. (Williams) was filed as a class action in 2000. The basis of the lawsuit was that state agencies had failed to provide public school students with equal access to instructional materials, safe, and decent school facilities, and qualified teachers. The case was settled in August 2004 and five bills implementing the settlement were enacted in September 2004: Senate Bill (SB) 6 (Chapter 899, Statutes of 2004) and SB 550 (Chapter 900, Statutes of 2004), Assembly Bill (AB) 1550 (Chapter 901, Statutes of 2004), AB 2727 (Chapter 903, Statutes of 2004), and AB 3001 (Chapter 902, Statutes of 2004). In July 2005, AB 831 (Chapter 118, Statutes of 2005) was enacted. This correspondence addresses the key components regarding certificated assignment monitoring found in AB 3001, AB 831, and the implementation of the changes in the monitoring and data reporting by county offices of education for the 2005-06 school year.¹

Implementation Responsibilities

As provided in AB 3001 and AB 831, the California Commission on Teacher Credentialing (CCTC) is responsible with respect to teacher assignment and reporting. The *Williams* legislation also addressed the changes to the School Accountability Report Card (SARC), the Uniform Complaint Procedure (UCP), the monitoring and repair of school facilities, monitoring and reporting by the county superintendents, standards-aligned instructional materials, and distribution of the funds associated with the settlement. Additional information on these aspects may be found on the "*Williams Case*" link on the California Department of Education (CDE) Web site at <http://www.cde.ca.gov/eo/ce/wc/index.asp> and contact numbers may be found on page 11 of this correspondence.

Which Schools Are Affected by *Williams*?

Schools most affected by the *Williams* case are in deciles 1, 2, and 3 as determined by the 2003 Academic Performance Index (API) Base Report. Deciles are groupings of schools ranked 1 (lowest) through 10 (highest) based on the API. The CDE Web site at <http://www.cde.ca.gov> contains links that identify which schools and the numbers of students affected. Some provisions are not limited to specific decile schools but affect all schools regardless of API decile. Employing agencies should carefully review each bill for the specifics on the deciles that are affected by the bill. Alternative schools that receive an API are on the list if they are in deciles 1, 2, and 3. Charter schools were

given the option to participate in the *Williams* lawsuit settlement provisions. A charter school election to participate was required to be made by February 8, 2005.

AB 3001 and AB 831 Assignment Monitoring in *Education Code (EC)* Section 44258.9

AB 3001 and AB 831 made changes to certificated assignment monitoring that existed in *EC* Section 44258.9. The full text of Section 44258.9 appears in Appendix A of this correspondence. The four-year monitoring cycle remains the same for most schools as does the on-line reporting that is due by July 1 of each year. All certificated assignments in the school districts being monitored as a result of the four-year cycle, teaching and non-teaching support positions, must be monitored. The changes are:

- (1) Assignment monitoring must be annually conducted and reported by county offices on all assignments for schools in deciles 1, 2, and 3 unless the school is under review through a state or federal intervention program. For more information see page three.
- (2) The county office is required to annually monitor districts with schools likely to have problems with teacher misassignment and teacher vacancies. This allows a county office to re-monitor the assignments in a school district during a four-year cycle if the district is found to have problems with misassignments and/or teacher vacancies.
- (3) The timeline for the CCTC to send the results of the monitoring report to the county superintendent of the seven single district counties that are monitored by the CCTC was shortened from 45 to 30 days.
- (4) The assignment monitoring data is reported to both the CCTC and the CDE. This will be achieved by changing the county superintendent acknowledgement in the on-line reporting of the monitoring data to include that the report is submitted to both agencies via the on-line mechanism. The CDE is required to submit an annual report to the legislature.

Teacher vacancies is defined in *EC* Section 33126(b)(5)(A)(B), shown below. To determine which schools and districts have problems with teacher vacancies and misassignments, county offices may review the district's SARC as each superintendent is required to report teacher vacancy information on the SARC.

- (A) *For purposes of this paragraph, "vacant teacher position" means a position to which a single 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.*

(B) For purposes of this paragraph, "misassignment" means 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.

Annual Monitoring of All Assignments in Decile 1, 2, and 3 Schools

Subdivision (b)(1)(B) of EC Section 44258.9 requires the county offices of education to annually monitor all assignments, teaching and non-teaching, in the decile 1, 2, and 3 schools unless the school is under review through a state or federal intervention program. See the section on "State or Federal Intervention Program Exemptions" on page nine for additional information on schools that are exempt. This is not an exemption from the annual data collection and reporting the county offices of education must complete on English learner assignments in decile 1, 2, and 3 schools as described below.

If the annual review of schools ranked in deciles 1, 2, and 3, inclusive of the 2003 API, finds that a school has no teacher misassignments or teacher vacancies, the school may be included with their district's next review according to their regular four-year cycle. However, if based on the assignment monitoring during the regular four-year cycle, past experience or other available information the county office finds that the school and school districts are likely to have problems with teacher misassignments and teacher vacancies, the decile 1, 2, and 3 school will return to annual monitoring.

If a decile 1, 2, or 3 school is in a district that is subject to assignment monitoring in accordance with the regular four-year cycle, the county must review all teaching and non-teaching support assignments. The county will report the data for all schools in one-fourth of their districts including the decile 1, 2, and 3 schools within those districts. The county will also report the data for the decile 1, 2, and 3 schools separately from the rest of the assignment monitoring data for the school district. The CCTC will develop a data base to report the results from the monitoring of all assignments in the decile 1, 2, and 3 schools. Information on this data base will be distributed to the county offices by the CCTC at a later date.

Annual English Learner Data Collection and Reporting

As a result of the provisions of AB 3001 and AB 831, the county offices of education must collect and report additional English learner data. Subdivision (c)(4)(A) of EC Section 44258.9, shown below, requires county offices of education, on an annual basis, to report on the appropriate English learner certification held by teachers in kindergarten through grade twelve (K-12) classes in decile 1, 2, and 3 (2003 API Base) schools if the class has 20 percent or more English learners. This is a school-by-school, classroom-by-classroom evaluation and must be completed on an annual basis whether or not the county is monitoring all the assignments in the district that year. The review is limited to collecting and reporting data on the appropriate English learner authorization. For information concerning the appropriateness of the basic teaching credential, please

see the "Finding a Misassignment and Correction" section of this correspondence beginning on page eight.

EC Section 44258.9(c)(4)(A)

Information on certificated employee assignment practices in schools ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index, as defined in subdivision (b) of Section 17592.70, to ensure that, at a minimum, in any class in these schools in which 20 percent or more pupils are English learners the assigned teacher possesses a certificate issued pursuant to Section 44253.3 or 44253.4 or has completed training pursuant to Section 44253.10 or is otherwise authorized by statute.

The additional English learner data collection and reporting should not be confused with any other type of review that district and county offices are required to complete. This includes the Coordinated Compliance Review (CCR) that the CDE completes for monitoring of English learner services, No Child Left Behind (NCLB), and Complaint Monitoring as per the UCP. Each review or audit has specific information to be collected and the reviews should not be mixed and matched. It is important to note that the 20 percent or more rule for reviewing the appropriateness of the teacher's English learner authorization applies only to the separate data collection and reporting required under *Williams*, and not to the regular assignment monitoring completed by the county offices. It does not matter whether there is one student or all the students in a class requiring English learner services, the teacher must hold the appropriate basic and English learner authorization.

How to Determine the 20 Percent or More English Learner Level

The county office must determine if there are 20 percent or more English learners in each class of the decile 1, 2, and 3 schools. If so, the county office will need to report if the teacher holds an appropriate authorization to teach English learners. The definition of English learner for this data collection and reporting is as follows:

An English learner is a student for whom there is a report of a primary language other than English on the state-approved "Home Language Survey" and who, on the basis of the state-approved California English Language Development Test (CELDT) has been determined to lack the clearly defined English language skills of listening comprehension, speaking, reading, and writing necessary to succeed in the school's regular instructional program.

One source that may be used to determine which students meet the definition of English learner is to use the data reported to the CDE on the district's Language Census Report (R30-LC form). The Language Census Report is an annual school-level data collection containing counts of students from non-English-language backgrounds enrolled in K-12 public schools in California and data on the staff who provide services to English learners. County offices, in cooperation with their districts, may use the R30-LC data to identify the classes in which the English learner students have been placed and if that

total is 20 percent or more. County offices may wish to contact the school district English learner/bilingual program coordinator or director to assist them with the process of identifying the placement of all English learner students and locating the classes in which the students are currently enrolled. School district credential or personnel analysts may also provide assistance to county offices. Information on the R30-LC forms appears on the CDE Web site at <http://www.cde.ca.gov/ds/sd/lc/materials.asp>. A copy of the R30-LC report form, Part I, is included in Appendix E of this correspondence.

Types of Schools and Classes in the Decile 1, 2, and 3 Schools

The annual data collection and reporting on instructors of English learners is limited to classes in schools in deciles 1, 2, and 3 of the 2003 API Base. The list of decile schools that must be reviewed may be found on the CDE Web site at <http://www.cde.ca.gov/eo/ce/wc/williamsdata.asp>. The link in the Excel format has a list of decile 1, 2, and 3 schools for all counties from which a county may extract only their districts and schools. The link for Searchable Data for "Find your school" has a list of schools by districts within each county. The data reported on certificated employee assignment practices in schools ranked in deciles 1, 2, and 3, inclusive, of the 2003 API, is to ensure that, at a minimum, in any class in these schools in which 20 percent or more pupils are English learners the assigned teacher possesses an appropriate English learner authorization or is otherwise authorized by statute. If the school is listed in decile 1, 2, or 3, **any** teaching assignment must be reviewed to verify if 20 percent or more of the students are English learners and, if so, whether the teacher holds the appropriate English learner authorization. This includes core content classes such as; English, mathematics, science, social science; elective subjects such as art and music; and other classes required for graduation such as physical education. Verification of a teachers authorization also applies to instructional settings such as, continuation school classes, necessary small schools, charter school classes, and special education classes. The review does not include a non-classroom setting such as pull-out assignments for resource specialists.

Review of Classes and Data to Collect/Report

After the county has determined the classes with 20 percent or more English learners, the data that will be collected and reported by the county offices will be in four areas:

- (1) Number of classes at a school site that have 20 percent or more English learners.
- (2) Number of classes with 20 percent or more English learners and the teacher holds an appropriate English learner authorization.
- (3) Number of classes with 20 percent or more English learners and the teacher **does not** hold an appropriate English learner authorization.
- (4) English learner enrollment at each school site which may be found on the bottom of page 2 of the R30-LC Census Report, Part 1, found in Appendix E.

Information on how to count classes may be found in the section on page seven entitled "Counting Classes." For purposes of English learner authorization, the authorization must match the type of English learner services being provided by the teacher i.e., English language development (ELD), Specially Designed Academic Instruction in English (SDAIE), or primary language instruction, to be considered appropriately authorized. For example, a teacher with a Crosscultural Language Academic Development (CLAD) authorization is authorized for ELD and SDAIE, but is **not** appropriately authorized to provide primary language instruction. For appropriate English learner authorizations please refer to the chart provided in Appendix B. This is not a review of the appropriateness of the subject area of the teacher's basic teaching credential but only for the appropriate English learner authorization. See the section on "Misassignments" on page eight in this correspondence for more information.

Appropriate English Learner Authorization

The CCTC issues a number of documents that authorize English learner services as shown in the chart in Appendix B, English Learner Assignment Chart. The chart should assist the county and district offices in their review for regular assignment monitoring as well as the new English learner data collection and reporting. Each type of document is issued as determined by the requirements the applicant has met to earn the certification. Documents included in the chart may fall within the category of emergency permit, provisional internship permit, short-term staff permit, credential waiver, internship, preliminary, clear, professional clear, or life credential. All categories authorize the holder to serve English learners according to the specified authorization of the document. For example, in Appendix B, row 7, the multiple or single subject document may be an emergency permit, internship, preliminary credential, etc.

Employing agencies may also use Section G of CCTC's *Administrator's Assignment Manual* as a source of information concerning appropriate assignment of teachers of English learners for both the regular assignment monitoring and the new data collection and reporting. The *Manual* may be found on CCTC's Web site at <http://www.ctc.ca.gov> in the "Resources" link under Credential Information on CCTC's main page.

Appropriate English learner authorization is defined in the statute as AB 1059 English Learner Content, CLAD, Bilingual Crosscultural Language Academic Development (BCLAD), SB 1969 Certificate, Certificate of Completion of Staff Development (through SB 395/AB 2913 training), or is otherwise authorized by statute to serve English learners. In addition, documents with authorizations equivalent to these but are no longer initially issued such as the Language Development Specialist (LDS) Certificate and the Bilingual Certificate of Competence (BCC) are also appropriate. The chart (Appendix B) included with the correspondence has a complete list.

The only exception found in statute which allows "teachers in training," is listed below in EC Section 44253.10(e). This statute allows individuals pursuing training to earn a Certificate of Completion of Staff Development to serve English learners and to be considered appropriately authorized while they are in this training. All other teachers that do not hold appropriate authorization will need to be reported as such.

EC Section 44253.10(e).

During the period in which a teacher is pursuing the training specified in paragraph (2) of subdivision (a) or subdivision (d), or both, including the period for the assessment and awarding of the certificate, the teacher may be provisionally assigned to provide instruction for English language development, as defined in subdivision (a) of Section 44253.2, or to provide specially designed content instruction delivered in English, as defined in subdivision (b) of Section 44253.2.

For purposes of *Williams*, per EC Section 44258.9(c)(4)(A), the “in-training” exception does not extend to those in the process of completing CLAD or BCLAD course work or examinations, as this is not in statute. Enrollment of teachers in a district or county office Plan to Remedy (PTR) the Shortage does not meet the provisions of the new code subdivision. Teachers “in-training” to earn a CLAD or BCLAD authorization that do not hold any current authorization to serve English learners will need to be reported as not holding the appropriate English learner authorization as explained on pages five and six of this correspondence.

Plan to Remedy the Shortage for Teachers in Training

The PTR the Shortage was a process established for local educational agencies (LEAs) over twenty years ago by the CDE to address the critical shortage of teachers authorized to teach ELD, specially designed academic instruction in English (SDAIE) and academic instruction through the primary language. This alternative training and monitoring process leading to compliance allows school districts to employ non-authorized teachers to serve English learners if the district has a PTR, and if these non-authorized teachers are included in that PTR. Each district is responsible to identify which teachers, based on their assignments, needs an additional English learner teaching authorization. The PTR contains the number of teachers the district identified as needed and a "shortage" number based on the total number of English learners in each school. The districts are responsible to notify "unauthorized" teachers that their assignment requires either an appropriate English learner teaching authorization or additional training leading toward an authorization. The CCTC has endorsed the CDE's alternative for assignment purposes. Teachers who did not hold an appropriate English learner certification but were identified in the PTR as participants in training have been considered to be legally assigned by the CCTC.

Each district PTR was submitted annually to the CDE. Approximately five years ago, the CDE sent a letter to districts with the annual Consolidated Application for Funds indicating that the CDE would no longer require submission of a PTR. However, districts were asked to keep on file their own updated PTR if they still had a shortage of qualified teachers for English learners. The PTR may be requested during a CDE monitoring review such as a CCR, a complaint investigation, or other CDE or CCTC review.

While there continues to be a shortage of qualified teachers to serve English learners, there are currently various pathways to earn an authorization to serve English learners. The locally-issued SB 1969 Certificate of Completion was developed in 1994 (no longer

initially issued) and was followed by the CCTC-issued Certificate of Completion of Staff Development through the SB 395 training. The availability to earn a Certificate of Completion through this training was extended last year to January 1, 2008, with the passage of AB 2913. The Emergency CLAD or BCLAD Permits are still available which a teacher can utilize while earning an English learner authorization. This process provides accountability as the teacher must complete course work or pass one of the exams towards earning the English learner authorization in order to renew the emergency permit on an annual basis.

With the availability of the other routes to earn an authorization to serve English learners, effective July 1, 2005, CCTC will no longer accept enrollment in a local PTR as an alternative to holding an appropriate authorization for serving English learners. Teachers enrolled in a PTR who are not actively pursuing training to earn the Certificate of Completion of Staff Development (through SB 395/AB 2913 training) will need to transition to an Emergency CLAD or BCLAD Permit, as appropriate to the assignment or will need to be removed from their English learner assignments.

Counting Classes

The number of classes being taught by teachers in the decile 1, 2, and 3 schools will be counted in the same manner as they are counted by the CDE in the annual California Basic Educational Data System (CBEDS) reporting using the Professional Assignment Information Form (PAIF). Teachers serving in self-contained classes are counted as one class and departmentalized or core setting assignments are counted period by period. This is for all classes including regular, alternative, and special education settings. For counting the teachers that do or do not hold an appropriate English learner authorization, it is the number of classes the teacher is teaching that needs to be reported in the new data system. See the information included in Appendix C for specifics on how to count all types of classes.

Finding a Misassignment and Correction

Anytime a misassignment is found it must be reported to the district superintendent for correction. This would include a misassignment found during the English learner data collection, during the annual review and reporting process of assignments in one-fourth of the school districts within a county, and reporting process and during the annual monitoring of all assignments in the decile 1, 2, and 3 schools described in this correspondence. If a certificated employee is placed in a position for which the teacher does not hold an appropriate credential or authorization, this is a misassignment. There is no numerical trigger and no percentage of students needing particular English learner services that determines a misassignment. If one or more of the students in the class needs English learner services or requires instruction in a subject area, the teacher providing the English learner services must hold an appropriate English learner credential or authorization. Misassignments pertain to any teaching assignment and to any non-teacher support position. The county will follow the same procedures and timelines for finding a misassignment when completing regular assignment monitoring to correct and report the correction or non-correction of a misassignment. The CCTC

will send the county offices additional information on reporting the different types of misassignments in a separate correspondence.

The new data collection and reporting under *Williams*, per EC Section 44258.9(c)(4)(A), requires the county offices to report if a teacher holds an appropriate English learner authorization if serving in a class in a decile 1, 2, and 3 school that has 20 percent or more English learners. In this review, teachers are misassigned if they do not hold the appropriate English learner authorization, or do not hold the appropriate basic teaching credential for service in a SDAIE or primary language instructional setting. While gathering the data to determine the classes with English learner students, the county office may find a misassignment in a class that does not have 20 percent or more English learners that must be reported and corrected.

As noted in the "Plan to Remedy the Shortage" section of this correspondence, beginning on July 1, 2005, teachers enrolled only in the LEAs PTR to earn a CLAD or BCLAD authorization will be considered misassigned and will need to obtain the appropriate certification such as an Emergency CLAD or BCLAD Permit. The misassignment must be reported to the district superintendent for the assignment to be corrected.

Misassignments must be corrected by the district within 30 days of notification. If the misassignment is not corrected, it must be reported to CCTC by using the "Unauthorized Assignments" on-line database. Contact CCTC's Assignment Unit by email at cawassignments@ctc.ca.gov for log-on information for the secure Web site. Following receipt of the misassignment information, CCTC will contact the district superintendent regarding correction of the misassignment and, if necessary, will follow the sanctions process as outlined in, *California Code of Regulations (CCR)*, Title 5, sections 80339 through 80339.6. The regulations may be found in Section R of the *Administrator's Assignment Manual*. The *Manual* may be found on CCTC's Web site at <http://www.ctc.ca.gov> in the Resources link under the Credential Information link.

Data Base

The CCTC developed a database for the new English learner assignment data to be collected and reported by the counties. The database incorporates the additional data into the current web-based report that the county offices have been using for the last several years. Some of the information such as name of district and county, school enrollment, and decile is pre-populated in the database. There is a section for "Additional Information Resulting from the Data Collection and Reporting" if the county should want to add comments. By submitting the data in this new database, the counties will be reporting to both the CCTC and the CDE as the CCTC will annually transmit the data to the CDE. A sample of the database appears in Appendix D.

Revisions will be made to the current English learner data base and sent to the county offices by the CCTC to reflect the changes in reporting for the 2005-06 school year from the data reported for 2004-05 school year. In addition, a data base to report the results from the monitoring of all assignments in the decile 1, 2, and 3 schools will be developed and distributed to the county offices by the CCTC.

State or Federal Intervention Program Exemptions

EC Section 44258.9(b)(1)(A)(B) exempts county offices from undertaking annual assignment review in decile 1, 2, and 3 schools and school districts that are under review through a state or federal intervention program. CCR, Title 5, regulations (section 17101) define which schools are considered “under review” for *Williams* implementation purposes.

CCR, Title 5, Section 17101. Definition of “Under Review”.

For the purposes of ensuring the use and sufficiency of state adopted textbooks and instructional materials and standards-aligned textbooks and instructional materials that are adopted by local governing boards, pursuant to Section 1240(i)(3) of the Education Code, schools “under review” are schools undergoing interventions pursuant to Sections 52055.5(b)(2), 52055.51, or 52055.650(e) of the Education Code.

However, this exemption for “under review” does not exempt decile 1, 2, and 3 schools from inclusion in the following:

- The regular four-year cycle of assignment monitoring conducted annually by the county office on the certificated assignments and
- County office of education’s annual reporting on the appropriate English learner certification held by teachers in grades K-12 classes in decile 1, 2, and 3 (2003 API Base) schools if a class has 20 percent or more English learners

Seven Single District Counties

The CCTC is responsible for monitoring the certificated assignments in the seven single-district counties: Alpine, Amador, Del Norte, Mariposa, Plumas, San Francisco, and Sierra. The CCTC is also responsible for completing the additional data collection and reporting for English learners and the monitoring of all schools in deciles 1, 2, and 3 for these counties. The CCTC will annually contact these counties with schools in deciles 1, 2, and 3 to obtain the information regarding the placement of English learners. This will allow the CCTC to complete the data required on appropriate certification of the teachers in the decile 1, 2, and 3 schools.

Timeline

The assignment monitoring and reporting process in EC Section 44258.9 does not have the same timelines or visitations as required for other areas of the *Williams* settlement such as instructional materials and facilities. Assignment monitoring must be annually conducted and reported by county offices on all assignments for schools in deciles 1, 2, and 3 unless the school is under review through a state or federal intervention program. The county superintendent is required to submit the assignment report data by July 1 of each year through the CCTC on-line web-based report.

Monitoring English Learner Teacher Training

EC Section 44258.9(b)(2) requires each county superintendent to investigate school and district efforts that credentialed teachers serving English learners are in training to earn a CLAD, BCLAD, or Certificate of Completion of Staff Development (through SB 395/AB 2913 training) complete the requirements or training to earn an English learner certificate. Data does not need to be reported to the CCTC or the CDE concerning this investigation but kept on file at the county office.

EC Section 44258.9(b)(2)

Each county superintendent of schools shall investigate school and district efforts to ensure that any credentialed teacher serving in an assignment requiring a certificate issued pursuant to sections 44253.3, 44253.4, 44253.7 or training pursuant to Section 44253.10 completes the necessary requirements for these certificates or completes the required training.

Contacts

On the CDE Web site at <http://www.cde.ca.gov/eo/ce/wc/index/asp>, there are Frequently Asked Questions (FAQs) concerning the settlement. Additional FAQs will be added regarding the data collection and reporting as necessary.

Questions concerning assignment monitoring, data collection and reporting, or appropriate assignment for all assignments including English learners:

California Commission on Teacher Credentialing

Assignment Unit

Telephone – (916) 322-5038 (voice mail message line)

E-mail – cawassignments@ctc.ca.gov

Questions concerning CDE's English learner data form and other provisions of the settlement:

California Department of Education

R-30 Language Census Report form and English learner definition:

Language Policy and Leadership Office (LPLO) (916) 319-0845

<http://www.cde.ca.gov/ds/sd/lc/materials.asp>

School Accountability Report Card (SARC): <http://www.cde.ca.gov/ta/ac/sa/index.asp>

Uniform Complaint Procedure: <http://www.cde.ca.gov/re/cp/uc/>

Textbooks and Facilities: <http://www.cde.ca.gov/ci/cr/cf/imfrpintro.asp>

<http://www.cde.ca.gov/ci/cr/cf/documents/reso60119lang.doc>

Other Areas: <http://www.cde.ca.gov/eo/ce/wc/wmslawsuit.asp>

Adonai Mack, Governmental Affairs Office, admack@cde.ca.gov or (916) 319-0821

Appendix

- A *Education Code* Section 44258.9 (Revised per AB 831)
- B Appropriate English Learner Authorizations for Certificated Assignment Monitoring and Data Collection per *Education Code* Section 44258.9
- C Reporting on Number of Classes Taught for California *Education Code* Section 44258.9(c)(4)
- D Sample Data Base
- E R30-LC Census Report, Part I (Pages 1 and 2 only)

¹ Senate Bill 512 (Scott) is pending. If enacted, this bill could change the information contained in this communication.

Education Code Section 44258.9

(a) The Legislature finds that continued monitoring of teacher assignments by county superintendents of schools will ensure that the rate of teacher misassignment remains low. To the extent possible and with funds provided for that purpose, each county superintendent of schools shall perform the duties specified in subdivisions (b) and (c).

(b) (1) Each county superintendent of schools shall monitor and review school district certificated employee assignment practices in accordance with the following:

(A) Annually monitor and review schools and school districts that are likely to have problems with teacher misassignments and teacher vacancies, as defined in subparagraphs (A) and (B) of paragraph (5) of subdivision (b) of Section 33126, based on past experience or other available information.

(B) Annually monitor and review schools ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index, as defined in subdivision (b) of Section 17592.70, if those schools are not currently under review through a state or federal intervention program. If a review completed pursuant to this subparagraph finds that a school has no teacher misassignments or teacher vacancies, the next review of that school may be conducted according to the cycle specified in subparagraph (C), unless the school meets the criteria of subparagraph (A).

(C) All other schools on a four-year cycle.

(2) Each county superintendent of schools shall investigate school and district efforts to ensure that any credentialed teacher serving in an assignment requiring a certificate issued pursuant to Section 44253.3, 44253.4, or 44253.7 or training pursuant to Section 44253.10 completes the necessary requirements for these certificates or completes the required training.

(3) The Commission on Teacher Credentialing shall be responsible for the monitoring and review of those counties or cities and counties in which there is a single school district, including the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City and County of San Francisco. All information related to the misassignment of certificated personnel and teacher vacancies shall be submitted to each affected district within 30 calendar days of the monitoring activity.

(c) County superintendents of schools shall submit an annual report to the Commission on Teacher Credentialing and the department summarizing the results of all assignment monitoring and reviews. These reports shall include, but need not be limited to, the following:

(1) The numbers of teachers assigned and types of assignments made by the governing board of a school district under the authority of Sections 44256, 44258.2, and 44263.

(2) Information on actions taken by local committees on assignment, including the number of assignments authorized, subject areas into which committee-authorized teachers are assigned, and evidence of any departures from the implementation plans presented to the county superintendent by school districts.

(3) Information on each school district reviewed regarding misassignments of certificated personnel, including efforts to eliminate these misassignments.

(4) (A) Information on certificated employee assignment practices in schools ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index, as defined in subdivision (b) of Section 17592.70, to ensure that, at a minimum, in any class in these schools in which 20 percent or more pupils are English learners the assigned teacher possesses a certificate issued pursuant to Section 44253.3 or 44253.4 or has completed training pursuant to Section 44253.10 or is otherwise authorized by statute.

(B) This paragraph shall not relieve a school district from compliance with state and federal law regarding teachers of English learners or be construed to alter the definition of "misassignment" in subparagraph (B) of paragraph (5) of subdivision (b) of Section 33126

(5) After consultation with representatives of county superintendents of schools, other information as may be determined to be needed by the Commission on Teacher Credentialing.

(d) The Commission on Teacher Credentialing shall submit biennial reports to the Legislature concerning teacher assignments and misassignments which shall be based, in part, on the annual reports of the county superintendents of schools.

(e) (1) The Commission on Teacher Credentialing shall establish reasonable sanctions for the misassignment of credential holders. Prior to the implementation of regulations establishing sanctions, the Commission on Teacher Credentialing shall engage in a variety of

activities designed to inform school administrators, teachers, and personnel within the offices of county superintendents of schools of the regulations and statutes affecting the assignment of certificated personnel. These activities shall include the preparation of instructive brochures and the holding of regional workshops.

(2) Commencing July 1, 1989, any certificated person who is required by an administrative superior to accept an assignment for which he or she has no legal authorization shall, after exhausting any existing local remedies, notify the county superintendent of schools in writing of the illegal assignment. The county superintendent of schools shall, within 15 working days, advise the affected certificated person concerning the legality of his or her assignment. There shall be no adverse action taken against a certificated person who files a notification of misassignment with the county superintendent of schools. During the period of the misassignment, the certificated person who files a written notification with the county superintendent of schools shall be exempt from the provisions of Section 45034. If it is determined that a misassignment has taken place, any performance evaluation of the employee under Sections 44660 to 44664, inclusive, in any misassigned subject shall be nullified.

(3) The county superintendent of schools shall notify, through the office of the school district superintendent, any certificated school administrator responsible for the assignment of a certificated person to a position for which he or she has no legal authorization of the misassignment and shall advise him or her to correct the assignment within 30 calendar days. The county superintendent of schools shall notify the Commission on Teacher Credentialing of the misassignment if the certificated school administrator has not corrected the misassignment within 30 days of the initial notification, or if the certificated school administrator has not described, in writing, within the 30-day period, to the county superintendent of schools the extraordinary circumstances which make this correction impossible.

(4) The county superintendent of schools shall notify any superintendent of a school district in which 5 percent or more of all certificated teachers in the secondary schools are found to be misassigned of the misassignments and shall advise him or her to correct the misassignments within 120 calendar days. The county superintendent of schools shall notify the Commission on Teacher Credentialing of the misassignments if the school district superintendent has not corrected the misassignments within 120 day of the initial notification, or if the school district superintendent of schools has not described, in writing, within the 120-day period,

to the county superintendent of schools the extraordinary circumstances which make this correction impossible.

(f) An applicant for a professional administrative service credential shall be required to demonstrate knowledge of existing credentialing laws, including knowledge of assignment authorizations.

(g) The Superintendent shall submit a summary of the reports submitted by county superintendents pursuant to subdivision (c) to the Legislature. The Legislature may hold, within a reasonable period after receipt of the summary, public hearings on pupil access to teachers and to related statutory provisions. The Legislature may also assign one or more of the standing committees or a joint committee, to determine the following:

- (1) The effectiveness of the reviews required pursuant to this section.
- (2) The extent, if any, of vacancies and misassignments, as defined in subparagraphs (A) and (B) of paragraph (5) of subdivision (b) of Section 33126.
- (3) The need, if any, to assist schools ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index, as defined in subdivision (b) of Section 17592.70, to eliminate vacancies and misassignments.

**Appropriate English Learner Authorizations for Certificated Assignment
Monitoring and Data Collection per *Education Code* Section 44258.9**

The term of the California Commission on Teacher Credentialing (CCTC) documents (rows 1-11) may be waivers, emergency permits, new provisional internship or short-term staff permit, internship credentials/certificates, or preliminary, clear, professional clear, or life credentials. The certificate in row 12 is a locally issued document and does not have a term.

No document is issued for those in rows 13 and 14; local employing district must ensure if an individual is actively pursuing coursework to earn an appropriate certificate. The Plan to Remedy (PTR) is a compliance monitoring process used by the California Department of Education (CDE).

	English Language Development (ELD) ¹	Specially Designed Academic Instruction in English (SDAIE) ¹	Instruction in Primary Language (Bilingual) ¹
1	Bilingual Specialist Credential	Bilingual Specialist Credential	Bilingual Specialist Credential
2	Bilingual Certificate of Competence (BCC) ²	Bilingual Certificate of Competence (BCC) ²	Bilingual Certificate of Competence (BCC) ²
3	Bilingual Crosscultural Language and Academic Development (BCLAD) Certificate or BCLAD Emphasis	Bilingual Crosscultural Language and Academic Development (BCLAD) Certificate or BCLAD Emphasis	Bilingual Crosscultural Language and Academic Development (BCLAD) Certificate or BCLAD Emphasis
4			Sojourn Teaching Credential
5	Language Development Specialist (LDS) Certificate ²	Language Development Specialist (LDS) Certificate ²	
6	Crosscultural Language and Academic Development (CLAD) Certificate or CLAD Emphasis	Crosscultural Language and Academic Development (CLAD) Certificate or CLAD Emphasis	
7	Multiple or Single Subject with AB 1059 English Learner Content	Multiple or Single Subject with AB 1059 English Learner Content	
8	Multiple or Single Subject SB 2042	Multiple or Single Subject SB 2042	
9	General Teaching Credential ³		

	English Language Development (ELD) ¹	Specially Designed Academic Instruction in English (SDAIE) ¹	Instruction in Primary Language (Bilingual) ¹
10	Supplementary Authorization in English as a Second Language ²		
11	Certificate of Completion of Staff Development ⁴ (<i>through SB 395/AB 2913</i>)	Certificate of Completion of Staff Development ⁴ (<i>through SB 395/AB 2913</i>)	
12	SB 1969 Certificate of Completion ⁵	SB 1969 Certificate of Completion ⁵	
13	In training for Certificate of Completion of Staff Development ⁴ (<i>through SB 395/AB 2913</i>)	In training for Certificate of Completion of Staff Development ⁴ (<i>through SB 395/AB 2913</i>)	
14	Plan to Remedy the Shortage (PTR)	Plan to Remedy the Shortage	Plan to Remedy the Shortage

1. There are restrictions to the grade level and subject area(s) that may be taught in each of the settings – check document for specific authorization. All CCTC-documents with the exception of the multiple and single subject teaching credentials require a prerequisite teaching credential.
2. These certificates or authorizations are no longer initially issued but remain valid and appropriate to serve English learners.
3. Although these credentials may legally be assigned to teach English as a Second Language (ESL/ELD), it is not recommended that employing agencies use these credentials unless the holder possesses skills or training in ESL/ELD teaching. Authorization is limited to grade level of credential.
4. Instruction is limited to instruction in a departmentalized classroom in the subject and grade authorized by the individual's basic credential. Instruction in a self-contained classroom in which the teacher is responsible for instructing the same students and a departmentalized classroom in the subject and grade authorized by the individual's basic credential. Unlike CLAD, the authorization to provide services to English learners under Certificate of Completion of Staff Development through SB 395/AB 2913 is restricted to teaching content authorized within the basic credential and does not include the teaching of English learners in specialized or designated classes or settings.

5. SB 1969 Certificates are no longer issued but remains valid. The CCTC stopped registering SB 1969 Certificates on July 1, 2003, and no longer registers any certificates regardless of the circumstances. An SB 1969 Certificate that was not registered with the CCTC is still valid. The individual will need to show the certificate to their current employer and will also need to provide it to any new employers. Unlike CLAD, the authorization to provide services to English learners under an SB 1969 Certificate of Completion of Staff Development is restricted to teaching content authorized within the basic credential and does not include the teaching of English learners in specialized or designated classes or settings.
6. Employing agencies may enroll individuals in their PTR when there is a shortage of teachers with appropriate certification to teach English learners. These teachers must be actively pursuing an appropriate English learner authorization such as CLAD/BCLAD or a Certificate of Staff Development (through SB 395/AB 2913). Individuals enrolled in a PTR who are working to earn a CLAD or BCLAD Certificate is considered to be appropriately assigned until July 1, 2005. After July 1 2005, the CCTC will no longer accept enrollment in the PTR for appropriate authorization to serve English learners. However, for the data required per *EC* Section 44258.9(c)(4), individuals serving in a decile 1, 2, and 3 school of the 2003 base API, and enrolled in the PTR prior to July 1 , 2005, seeking to earn a CLAD or BCLAD will be counted in the category as “teachers without an English learner authorization.”

Reporting on Number of Classes Taught for California *Education Code* Section 44258.9(c)(4)(A)

There are two determining factors in counting the number of classes taught by an individual with 20 percent or more English learners in a class in a school in decile 1, 2, and 3. One is whether the instruction is in a classroom setting. Pull-out and resource setting may not be a classroom setting and are therefore not part of this data collection. The second factor is the type of setting. Self-contained class settings are counted as one class and departmentalized class settings are counted period by period. **It does not matter if the setting is in a regular, alternative, special education or charter school class.**

The basic teaching credential is not a factor in deciding how to count the classes for this data collection. For example, the holder of a multiple subject credential with a supplementary authorization in mathematics is teaching five periods of departmentalized mathematics classes at the middle school level. Even though the teacher holds an elementary credential, since the assignment is departmentalized the classes will be counted for this data collection period by period and in this example as five classes.

Self-Contained Class

A self-contained classroom setting is one whereby all subjects are taught by an instructor to a group of students; usually found at the elementary level.

Departmentalized Class

A departmentalized class is one in which one instructor teaches a specific subject matter area. The instructor usually teaches the subject matter to several different groups of students. This is the classroom organization usually found in a middle, junior, or high school setting but may also be found at the elementary level in classes such as art, physical education, and music. Departmentalized settings include block scheduling, core settings (two or more classes to the same group of students at the middle school level), and exploratory wheel classes.

Alternative Education Setting Class

Alternative education is a course of study prescribed by the *EC* which is different from and is an alternative to conventional or regular instruction. This includes continuation, home/hospital, community day, necessary small, opportunity, juvenile court, and independent study if services are provided in a classroom setting. Most teachers serving in these settings are assigned on the basis of *EC* Section 44865 which is an appropriate authorization if the teacher has consented to the assignment. However, if 20 percent or more English learner students are in an alternative education class in a decile 1, 2, or 3 school, the county will need to complete the data regarding if the teacher hold an appropriate English learner authorization. Alternative schools that receive an API are on the list if they are in deciles 1, 2, or 3.

Charter School Class

A charter school is a public school that may provide instruction in K-12. Parents, teachers, or community members may initiate a charter petition usually approved by a local school district governing board. A charter school election to participate was required to be made by February 8, 2005. Charter schools were given the option to participate in the *Williams* lawsuit settlement provisions. If a charter school is on the decile 1, 2, and 3 school list, county offices should follow the instructions above for self-contained or departmentalized setting for counting the number of classes.

Sample Data Base

This is a sample of the data county offices of education will need to collect and report to CCTC and the CDE under Education Code Section 44258.9(c)(4)(A)

Name of School District	Name of School	School Enrollment	EL Enrollment	Decile	A	B	C
					Number of classes with 20% or more English Learners	Number of classes with 20% or more English learner students with a teacher that holds an appropriate English Learner authorization	Number of classes with 20% or more English learner students with a teacher that DOES NOT hold an appropriate English Learner authorization
Hale	Gray Elementary	300	150	2	3	2	1
Hale	Eugene Middle	112	50	1	1	1	0
Subtotal					4	3	1
Owens	Nadine Elementary	226	58	3	0	0	0
Owens	Elizabeth High	1117	800	2	16	6	10
Subtotal					16	6	10
Grand Total					20	9	11

Additional Information Resulting from Data Collection per *Education Code Section 44258.9(c)(4)(A)*