California Department of Education

Executive Office

SBE-002 (REV. 11/2017)

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# **MEMORANDUM**

**DATE:** June 18, 2021

**TO:** MEMBERS, State Board of Education

**FROM:** TONY THURMOND, State Superintendent of Public Instruction

**SUBJECT:** Overview of Local Assignment Options

## Summary of Key Issues

To meet the requirements of the Every Student Succeeds Act (ESSA) the California Department of Education (CDE) must report data illustrating the various credential and authorization statuses recognized by state law, information regarding statewide teacher misassignments, and data describing the distribution of “inexperienced,” “ineffective,” and “out-of-field” teachers serving students of color and socioeconomically disadvantaged students. Under ESSA, each state has the authority to define these terms.

The State Board of Education (SBE) adopted definitions for “ineffective” and “out-of-field” teachers when the ESSA State Plan was first approved in September 2017. The SBE defined an “out-of-field” teacher as a “teacher who has not yet demonstrated subject matter competence in the subject area(s) or for the student population to which he or she is assigned.” Shortly thereafter, the CDE, in partnership with the California Commission on Teacher Credentialing (CTC), provided extensive technical assistance to local educational agencies (LEAs) regarding the definitions and received many questions regarding various types of credentials and authorizations not included in the adopted definitions.

To provide clarification, in November 2019, the SBE approved the inclusion of several additional types of credentials and authorizations to create updated definitions for “ineffective” and “out-of-field.” The definition of “ineffective teacher” was expanded to include individuals teaching with Provisional Internship Permits (PIPs), Short-Term Staff Permits, and Variable Term Waivers. The definition of “out-of-field teacher” was also expanded to include individuals teaching with Short-Term Waivers, Emergency English Learner or Bilingual Permits, and on Local Assignment Options (LAOs), because these teachers have not yet demonstrated subject matter competence in the subject area(s) or for the student population to which they are assigned. The U.S. Department of Education approved these amendments to the ESSA State Plan in December 2020. For more information, please see the CDE Updated Teacher Equity Definitions web page at <https://www.cde.ca.gov/pd/ee/teacherequitydefinitions.asp>.

The purpose of this memo is to provide the SBE with information regarding LAOs since this is the first time teachers on a LAO have been described as “out-of-field.”

### **Local Assignment Options**

If an employing agency is unable to assign a teacher or other certificated employee with the appropriate credential, they may choose to assign a teacher through a LAO. LAOs are provisions within the California *Education Code* (*EC*) and *California Code of Regulations,* Title 5 (5 *CCR*) that permit the governing board of a LEA to otherwise legally authorize a fully credentialed educator to serve in an assignment outside of the area authorized by their credential, if specified criteria are met. Some employing agencies have policies which may specify preferred credentials and may prohibit the use of some of the options.

Most LAOs require a full teaching credential. Intern, Waiver, PIP, and Short-Term Staff Permit holders cannot serve on LAOs. Teachers serving on LAOs must give their consent for the assignment. LAOs are for general education assignments only, and cannot be used for special programs such as Special Education, Career Technical Education, or English Learner assignments.

For LAOs that require governing board authorizations, the placement should be approved by the governing board prior to the start of the assignment. Educators placed in classrooms without board approval are misassigned. Governing board approval is required annually to guarantee transparency in assignments, as board agendas are public and accessible to parents and stakeholder groups.

While teachers on LAOs have not yet demonstrated subject matter competence in the subject area(s) or for the student population to which they are assigned, all LAOs are considered “legal assignments” by the CTC if all of the requirements listed in 5 *CCR* and *EC* are met. Although the CTC facilitates the annual collection and reporting of teacher misassignment data, the agency does not have authority over LAOs. The use of LAOs is determined at the local level. There are more than 40 different types of LAOs that are authorized by the CTC. Attachment 1 provides information regarding some of the most common LAOs utilized by LEAs.

LAOs are authorized in California *EC* as well as 5 *CCR* and allow teachers to teach outside their credentialed areas in a variety of settings and for different reasons. For example, LAOs authorized in *EC* Section 44865 allow staff with any credential to teach any subject in alternative settings including: independent study; home/hospital; adult education; necessary small/continuation/alternative/opportunity/juvenile court/county or district community schools.

LAOs authorized in *5 CCR* Section 80005(b) allow kindergarten through grade twelve staff to teach electives within their grade level authorization. Two examples of the use of this type of a LAO are teachers assigned to Advancement Via Individual Determination and Student Government courses. This particular LAO is unique because appropriate certifications or authorizations for these courses do not currently exist.

Although teachers employed on LAOs are considered “out-of-field” under the SBE-adopted definitions, LAOs are legal assignments under California law. There are no related fiscal consequences for LEAs that employ teachers on LAOs.

### **Four-Week Letters Under Every Student Succeeds Act**

ESSA Section 1112(e) states that LEAs shall notify the parents of each student attending any school receiving Title I funds that the parents may request, and the agency will provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student’s classroom teachers, including at a minimum, the following: (1) whether the student’s teacher (a) has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction; (b) is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived; and (c) is teaching in the field of discipline of the certification of the teacher and (2) whether the child is provided services by paraprofessionals and, if so, their qualifications.

Further, ESSA Section 1112(e)(1)(B)(ii) requires LEAs that receive Title I funding to provide parents with information on the level of achievement and academic growth of the student and timely notice that the student has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification or licensure requirements at the grade level and subject area in which the teacher has been assigned. To remain consistent with SBE-adopted definitions, LEAs are required to send four-week letters to parents whose students are being served by teachers designated as “ineffective” and “out-of-field.” For additional information, see the Four-Week Letter Notification Determinations Chart on the CDE Promoting Equitable Access to Teachers web page at <https://www.cde.ca.gov/pd/ee/peat.asp>.

## Attachment(s)

* Attachment 1: Commonly Used Local Assignment Options

# **Attachment 1: Commonly Used Local Assignment Options**

| **Code Section** | **Local Assignment Option (LAO) Description** |
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| California *Education Code* (*EC*) Section 44256(b) | This LAO may be used to assign staff to a departmentalized setting, in grades eight and below, and in any content area. The local educational agency (LEA) must verify that the staff member has an elementary or multiple subject base teaching credential and 12 lower or six upper semester units in the content that will be taught. A local governing board is resolution required. |
| *EC* Section 44258.2 | This LAO may be used to assign staff to a departmentalized setting, in grades five through eight, and in any content area. The LEA must verify that the staff member has a single subject or secondary base teaching credential and 12 lower or 6 upper semester units in the content taught. A local governing board resolution is required. |
| *EC* Section 44258.3 | This LAO may be used to assign staff to a departmentalized setting, in grades kindergarten through twelve (K–12), and in any content area. The LEA must verify that the staff member has a credential based on a Baccalaureate (BA), student teaching, and adequate subject matter knowledge as defined by the local governing board. Specific local governing board policy applies. |
| *EC* Section 44258.7(c)(d) | This LAO may be used to assign staff to a departmentalized setting, in grades K–12, and in an elective content area for a maximum of one year, with the option of annual renewal. The LEA must verify that the staff member has any teaching credential and special skills and preparation in the elective that will be taught. Specific local governing board policy applies. |
| *EC* Section 44263Self-Contained | This LAO may be used to assign staff to a self-contained setting, in grades K–12, and in any content area for a maximum of one year, with the option of annual renewal. The LEA must verify that the staff member has any teaching credential and 60 semester units distributed among 10 subject areas as defined in *EC* Section 44314. A local governing board resolution is required. |
| *EC* Section 44263Departmentalized | This LAO may be used to assign staff to a departmentalized setting, in grades K–12, and in any content area for a maximum of one year, with the option of annual renewal. The LEA must verify that the staff member has any teaching credential and 18 lower or nine upper semester units in content that will be taught. A local governing board resolution is required. |
| *EC* Section 44865 | This LAO may be used to assign staff to any of the following settings: independent study; home/hospital; adult education; necessary small/continuation/alternative/opportunity/juvenile court/county or district community schools, in grades K–12, and in any content area. The LEA must verify that the staff member has a credential based on a BA and student teaching. Subject matter knowledge verification and local governing board resolution are not required.  |
| *California Code of Regulations,* Title 5 (5 *CCR*) Section 80005(b) | This LAO may be used to assign staff to a departmentalized setting, in grades K–12, in an elective content area, limited to the grade level authorized by the staff member's teaching credential. The LEA must verify that the staff member has a credential based on a BA and student teaching, as well as requisite knowledge and skills in content taught. No local governing board policy is required. |
| 5 *CCR* Section 80020.4 | This LAO may be used to assign staff to staff development at the school site, school district, or county-level setting and in any content area. The LEA must verify that the staff member serving as a staff developer for a specific subject must hold a credential in the subject or have his or her expertise in the subject verified and approved by the local governing board. A local governing board resolution is required. |
| 5 *CCR* Section 80020.4.1(a) | This LAO may be used to assign staff to a program coordination setting at a school site and in any content area. The LEA must verify that the staff member has a credential based on a BA and student teaching. Subject matter knowledge verification and local governing board resolution are not required. |
| *EC* Section 48800 | This LAO may be used to assign a teacher employed by a postsecondary institution to teach a course for which the student earns college and high school credit. Students in this course attend a community college during any session or term as special part-time or full-time students and undertake one or more courses of instruction offered at the community college level. |
| *EC* Section 76004 | This LAO may be used to assign staff employed by a postsecondary institution to teach a course for which the student earns college and high school credit when the governing board of the community college district has entered into a College and Career Access Pathways partnership with the governing board of a school district for the purpose of offering or expanding dual enrollment opportunities.  |