



Board Agenda Item #	IV B: Action Item
Date:	July 8, 2021
To:	Magnolia Board of Directors
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead:	Derya Hajmeirza, MPS Human Resources Director
RE:	Teacher Assignment Option: Ed Code 44258.3

### Proposed Board Motion

I move that the board approve the teacher assignment option: Ed Code 44258.3.

### Introduction

Ed Code options allow flexibility for teacher course assignments. This particular education code allows school boards to assign teachers to an academic subject area outside of their credential.

### Background

Education codes (“Ed Code”) are created and changed based on laws passed by the state legislature or Governor. Ed codes govern all public schools in California. The Ed Code 44258.3 is very specific about the criteria that is needed to determine if a teacher has the training and knowledge to be successful in the course being taught if assigned utilizing this Ed Code option.

Traditionally, charter schools did not use Ed Code options, but with the credentialing rule changes and the current shortage of teachers, it has been advised by charter school authorizers to start using Ed Code options as an alternative to assigning teachers to subject areas without them having to earn another credential authorization. Teachers must already hold a Preliminary or Clear credential and have completed a teacher preparation program including student teaching to be eligible for this education code.

This board item only authorizes the use of the education code at this time. If the school decides to place a teacher in an assignment utilizing this education code, the teacher’s name, assignment and qualifications will be brought to the board for approval.

### Budget Implications

- There are no budget implications.

### Exhibits (attachments):

- Advisory on Teacher Assignment Option Education Code §44258.3

# Advisory on Teacher Assignment Option Education Code §44258.3



## **Commission on Teacher Credentialing** **Ensuring Teacher Quality**

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State of California  
Commission on Teacher Credentialing  
1900 Capitol Avenue  
Sacramento, CA 95811

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### **Notice**

This Advisory was developed by the Certification Division of the Commission on Teacher Credentialing. For more information about the content of this report, contact the Commission's Assignment Unit at [cawassignments@ctc.ca.gov](mailto:cawassignments@ctc.ca.gov).

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## **Advisory on Teacher Assignment Option EC §44258.3**

### **Background**

California law requires that schools employ only individuals with either the appropriate credential or with an 'alternative assignment option' established by statute or regulation that allows them to teach in California schools. In order to assist school administrators to adopt progressive curricular structures and respond to inherent difficulties in assigning teachers to meet school site requirements, California's Education Code provides a number of these alternative assignment options which allow employers to legally employ individuals outside of their subject area of the credential as long as the employer follows the guidelines established by regulations when implementing these assignment options. One such option was established in 1991 (authored by Senator William Craven) which created EC §44258.3 to allow districts to assign teachers outside of their area of credential authorization in a departmentalized setting.

Since January 1, 1992, EC §44258.3 has allowed local school governing boards to assign teachers holding credentials authorizing instruction in self-contained classrooms to teach in departmentalized classrooms in grades 8 and below upon local verification that the teacher to be assigned has adequate knowledge of the subject to be taught. Section 44258.3 was amended in 1995 (as a result of the passage of AB 1124 authored by Assemblywoman Linda Davis) to expand this assignment option to allow any fully-credentialed teacher (holding a credential based on bachelor's degree and student teaching), regardless of subjects or grades authorized, to be legally assigned under this option in departmentalized classrooms in grades 12 and below once adequate knowledge of the subject has been verified. The complete text of EC §44258.3 appears in Attachment 1.

Key aspects of the assignment option authorized by Section 44258.3 include:

- Governing boards using this option must establish specific policies and procedures to verify that the teacher to be assigned has adequate knowledge of the subject to be taught.
- "Subject-matter knowledge" should include both knowledge of the California curriculum framework for the subject area and the specific content of the course(s) to be taught as defined by the local district.
- Governing boards must utilize subject-matter specialists in development of the process of verifying a teacher's competence in the subject being assigned. Subject-matter specialists are broadly defined in the section as mentor teachers, curriculum specialists, resource teachers, classroom teachers certified to teach a subject, staff to regional subject-matter projects or curriculum institutes, or college faculty.
- Assignments under this option require that the teacher being assigned consents to the assignment.
- Governing board approval is not required for a teacher to continue for another year in the same subject of the assignment authorized by this option.
- School districts must report to their county office of education during assignment monitoring activities (EC §44258.9) when this assignment option is used.
- The CTC may rescind the authority of school districts to exercise this option if they institute it improperly.

An advisory on using EC §44258.3 was originally published in 1992. In 1995, following a study conducted by the Commission, a report was sent to the Legislature that resulted in the changes to

the code section in 1996. This advisory is intended to update the original advisory and to provide employing education agencies with further information, including step-by-step instructions, regarding implementation of the assignment option made available by Section 44258.3. CTC holds that by clarifying the requirements for utilizing this assignment option it will allow districts to begin utilizing it, or to utilize it to a greater degree, thereby decreasing the number of misassignments.

## **Assigning Teachers Based Upon EC§ 44258.3**

### **A Model For School Districts Using This Assignment Option**

Following is a simple seven-step approach to the establishment of a procedure to assign teachers in school districts according to EC §44258.3. This is one example of an acceptable approach to implementing EC §44258.3. Other approaches are acceptable as long as the general implementation requirements established by this Education Code section are met.

#### **Step 1 - Administrator Identifies an Instructional Need**

This process begins with the school site administrator. The administrator determines the need for a teacher in a specific subject area or finds there is a need for additional staff when scheduling classes.

#### **Step 2 - Administrator Reviews Assignment Options**

The site administrator verifies that there is no available teacher on staff with the appropriate credential authorization to teach the subject area and that the EC §44258.3 option should be used to address the need.

#### **Step 3 - Administrator Identifies a Teacher with Adequate Subject-Matter Background that Consents to the Assignment**

The site administrator may identify a teacher who has knowledge of the subject matter and who wishes to take the teaching assignment. Once the need to fill the assignment has been established, a teacher may also request to fill the assignment. The panel will assess if a teacher has the appropriate knowledge. It is important to remember that teacher consent is required when assigning individuals under this option.

#### **Step 4 - Teacher is Instructed to Petition to Teach the New Subject**

The teacher submits a petition to the district to teach in the position and to be evaluated for subject-matter competence in the subject of the assignment. This petition includes a brief statement from the teacher as to what education and/or experience qualifies the teacher for adequate subject-matter knowledge to serve in the subject area. *A petition is suggested to keep a record of the request but it is optional for the district to use.*

#### **Step 5 - School Site or District Level Assessment Panel Convenes**

A school site or district level assessment panel convenes to conduct a subject-matter competence assessment. Subject-matter specialists may serve as members of the assessor panels. CTC advises that the panel include subject-matter specialists (see definition on page 1 of this Advisory) in the subject area the petitioner seeks to teach and, prior to participation on the panel, all panelists receive orientation to the policies and procedures that the district has established.

#### **Step 6 - Panel Performs Subject-Matter Assessment**

The panel reviews evidence of the teacher's knowledge of the subject matter to be taught and the teacher's ability to teach the appropriate content to the age group of the specific assignment. Subject-matter knowledge includes knowledge of the state curriculum framework for the subject

area as well as specific content for the course established by the local school district. The subject-matter knowledge review may include a variety of methods to verify the applicant's knowledge and ability.

### **Step 7 - Panel Takes Appropriate Action**

Based upon a review of all available information, and using the policies and procedures established by the local governing board, the panel approves or disapproves the petition and notifies the site administrator of their decision. The panel informs the district office of their decision. The panel may arrive at any one of three conclusions:

- They may approve the petition with 'clear' verification, authorizing the individual to teach the subject(s) requested without any conditions.
- They may approve the petition with a professional growth/support plan identifying areas of subject-matter knowledge in need of enhancement and stipulating requirements to be met as a condition of teaching the requested subject(s).
- They may disapprove the petition.

## Implementing EC §44258.3

### Establishing Governing Board Approval/School District Responsibilities

The district governing board must determine whether it wishes to use this assignment option. The next step is to develop the means to meet the requirements for implementing this assignment option. The district is ultimately responsible for verifying that the teacher has adequate knowledge of the subject(s) to be taught. The board allows for the verification of this subject-matter knowledge by establishing district policies and procedures for the verification process. It is important that the governing board involve subject-matter specialists in the development of policies and procedures to be used in this process. Attachment 2 is a sample school board policy review agenda item for this assignment option.

The governing board must approve the policies and procedures prior to an assessment of a teacher's subject-matter competence. These policies and procedures include:

- The methods teachers may attain district-recognized subject-matter competence other than completion of college or university course work including, but not limited to successful prior teaching experience, self-directed study, completion of internships, study with a mentor teacher, curriculum institutes, work experience, or systematic programs of professional development.
- The methods that assessment panel members are to use to assess subject-matter competence including one or more of the following: observation by subject-matter specialists, oral interviews, demonstration lessons, presentation of curricular portfolios, or written examinations.
- Specific criteria and standards for adequate subject-matter knowledge based upon the methods established as indicated above. For example, if written examinations are used, passing scores for the examinations are to be established by the district governing board.
- The method(s) for selecting subject-matter specialists and assessment panel members. "Subject-matter specialists" are defined in EC §44258.3(d) as found in the definition provided on page 1 of this advisory. Assessment panels may be district-wide or site-based and the number of panel members may vary. District policies regarding selection, size, and responsibilities of assessment panels are to be clearly defined in the policies approved by the governing board.
- The means by which assessment panel members are informed and trained in the policies and procedures of such panels is established by the district governing board. In-service training is often the method used to provide this information and training.

The statute specifically states that the assessment must take place *prior to the assignment* of a teacher under this option. The district governing board policies must also include that the teacher's consent has been given prior to assigning the teacher based upon EC §44258.3 and should clarify that when the district assigns a teacher to a position not authorized by the teacher's credential based upon EC §44258.3, the teacher may teach the new subject within that district only. If the teacher moves to a new district, the subject-matter adequacy verification process would need to be completed in the new district before assignment based upon EC §44258.3 may be made there. Finally, the district governing board should ensure that the policies include procedures to verify that the teacher is meeting the conditions of the assignment prior to

extending the assignment in circumstances where a teacher's petition is approved with conditions.

The school district is also responsible for reporting to their county office of education, during assignment monitoring activities, instances when this assignment option is used. This reporting would most likely occur during the assignment monitoring activities in accordance with EC §44258.9.

The school district assesses a teacher's subject-matter competence following the board approved policies and procedures.

### ***School Site Administrator Responsibilities***

The process described in this advisory assumes that the school site administrator is the individual most likely to determine the need for a teacher to teach a subject outside of the teacher's credential authorization. A district may decide that the district level administrator may make the determination. Under these circumstances, the administrator identifies the need, determines that the assignment option provided by EC §44258.3 is most appropriate for the situation, and identifies a teacher with adequate subject-matter knowledge who consents to undertaking the assignment. A teacher may also request to fill an assignment. Once the appropriate teacher has been identified, the administrator instructs the teacher to petition to teach the assignment and to be evaluated for adequate knowledge of the subject to be taught in the assignment. Depending on the district's established policies and procedures, the site administrator may also have specific responsibilities regarding the convening and activities of the assessment panel.

The principal of the school, or other appropriate administrator, must notify the representative of the certificated employees for the school district each time a teacher is assigned on the basis of this option as found in subsection (b) of EC §44258.3.

### **Teacher Responsibilities**

Teachers must first determine whether they wish to accept an assignment outside of the subject area authorized by their credential. When implementing this assignment option, the teacher's consent is required. Once a teacher decides to pursue an assignment in another subject area, the teacher contacts the site administrator or other appropriate district official for instructions on petitioning to be authorized to teach in the new assignment. Use of the forms by the school district is optional but CTC strongly advises the district to use this form or develop their own forms to keep track of the assignments made for individuals to serve outside the subject area of their credential.

It is the teacher's responsibility to provide evidence of his or her knowledge of the subject being assessed as required in the district's policies and procedures for the assessment.

### **Commission's Responsibilities**

CTC must also collect the data on the number, subject area, and grade level of teaching assignments on the basis of EC §44258.3 that is provided by the county offices of education as a result of assignment monitoring.

CTC may suspend the authority of an employing agency to use EC §44258.3 to assign teachers to teach outside the subject area if the Commission finds that a school district has violated any of

the provisions of the Education Code. This may include, but need not be limited to, assigning teachers without establishing and receiving governing board approval for policies and procedures, not using subject-matter specialists in the development and implementation of the policies and procedures, assigning a teacher prior to the subject-matter knowledge review, and not receiving teacher consent for the assignment. The employing agency will receive a letter from the Commission informing them if their authority to use this option was suspended.

### **Forms Aiding Implementation of EC §44258.3**

Sample forms have been created by CTC that may be used or adapted for use by school districts in implementing a process for assigning individuals under the provisions established by EC §44258.3. Attachment 3 contains a sample teacher petition and Attachment 4 has a sample assessment team evaluation. In addition, there is a sample school board policy review agenda item in Attachment 2. These forms may be duplicated or amended to suit individual district needs and are optional.

### **Other Resources Aiding Implementation of EC §44258.3**

To order the California curriculum frameworks for subjects commonly taught in California public schools, or to order other publications by the CDE, contact CDE Press Sales Unit by telephone at (916) 445-1260 or their website at <http://www.cde.ca.gov/re/pn/>.

For additional information on implementation of EC §44258.3 and other assignment options, contact the CTC's Assignment Unit by telephone at the voice mail message line (916) 322-5038 or by e-mail at [cawassignments@ctc.ca.gov].



## Attachment 1

### **EC §44258.3. Teaching by Holder of Credential to Teach Subjects in Kindergarten and grades 1 to 12; Knowledge of Subject; Assignments.**

- (a) The governing board of a school district may assign the holder of a credential other than an emergency permit, to teach any subjects in departmentalized classes in kindergarten or any of grades 1 to 12, inclusive, provided that the governing board verifies, prior to making the assignment, that the teacher has adequate knowledge of each subject to be taught and the teacher consents to that assignment. The governing board shall adopt policies and procedures for the purpose of verifying the adequacy of subject knowledge on the part of each of those teachers. The governing board shall involve subject matter specialists in the subjects commonly taught in the district in the development and implementation of the policies and procedures, and shall include in those policies and procedures both of the following:
- (1) One or more of the following ways to assess subject matter competence:
    - (A) Observation by subject matter specialists, as defined in subdivision (d).
    - (B) Oral interviews.
    - (C) Demonstration lessons.
    - (D) Presentation of curricular portfolios.
    - (E) Written examinations.
  - (2) Specific criteria and standards for verifying adequacy of subject matter knowledge using any of the methods in paragraph (1). The criteria shall include, but need not be limited to, evidence of the candidate's knowledge of the subject matter to be taught, including demonstrated knowledge of the curriculum framework for the subject to be taught and the specific content of the course of study in the school district for the subject, at the grade level to be taught.
- (b) Teaching assignments made pursuant to this section shall be valid only in that school district. The principal of the school, or other appropriate administrator, shall notify the exclusive representative of the certificated employees for that school district, as provided under Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, of each instance in which a teacher is assigned to teach classes pursuant to this section. Any school district policy or procedures adopted and teaching assignments made pursuant to this section shall be included in the report required by subdivisions (a) and (e) of Section 44258.9. The Commission on Teacher Credentialing may suspend the authority of a school district to use the teaching assignment option authorized by this section upon a finding that the school district has violated the provisions of this section.
- (c) Nothing in this section shall be construed to alter the effect of Section 44955 with regard to the reduction by a school district governing board of the number of certificated employees.
- (d) For the purposes of this section, "subject matter specialists" are mentor teachers, curriculum specialists, resource teachers, classroom teachers certified to teach a subject, staff to regional subject matter projects or curriculum institutes, or college faculty.

## Attachment 2

### Board Policy 32188 Review

#### Discussion/Action Item

Current law provides various ways for local governing boards to assign credentialed teachers to serve in subject-matter areas in grades K-12. One option is EC § 44258.3 which allows local school districts to assign credentialed (non-emergency) teachers to teach departmentalized classes in grades K-12, irrespective of the designations on their teaching credentials, as long as the teacher's subject matter competence is verified according to policy and procedures approved by the governing board and the teacher consents to the assignment.

Board Policy 32188 is presented to you for discussion or action. This policy is to establish the district's plan (in attachment A) to implement these options.

#### **Recommendation:**

The administration recommends approval of Board Policy 32188 to provide greater flexibility in local teacher assignments in grades K-12.

### *District Plan*

#### **Education Code §44258.3**

Purpose: It is the intent of Garcia School District to facilitate the assignment of teachers in accordance with EC §44258.3 when they consent to such assignments and when it has been verified that they are qualified for the requested assignment(s). The following procedures are intended to provide for the implementation of Board Policy 32188.

1. Site Administrator identifies a subject-matter assignment need at a local school site.
2. Site Administrator determines whether any existing staff have the appropriate credential and are interested in the assignment or whether EC §44258.3 should be used.
3. Site Administrator identifies consenting teacher for possible assignment pursuant to EC §44258.3 or a teacher may request to fill the assignment.
4. Teacher submits a petition form to teach in the position. The petition denotes criteria upon which petition is based, teacher consent, site administrator's recommendation of assignment, and that the assignment is for one year and may be extended for additional time if the teacher and school district consents.
5. A review panel, selected by the district, will consist of site administrators, teachers, and district level administrators. This Assignment Review Panel conducts, prior to the beginning of the assignment, an assessment in accordance with EC §44258.3. This assessment must determine evidence of the candidate's knowledge of the subject matter to be taught and at the grade level to be taught.

One or more of the following criteria may be used in the review:

- a. Successful prior teaching experience of the subject
  - b. Successful completion of intensive professional development in the subject to be taught
  - c. Review of portfolio containing evidence of demonstrated knowledge
  - d. Results of oral interviews
  - e. Practical experience
  - f. Passage of an examination that is valid for the subject and grade level
  - g. Observation over time of the teacher in the subject in the grade level currently being taught
  - h. Observation of a demonstration lesson in the subject and at the grade level to be taught
  - i. Professional Growth Plan - The petitioning teacher and administrator have come to mutual agreement that a professional growth plan is necessary for the teacher to serve in the position
  - j. Successful completion of college or university course work in the subject to be taught
  - k. Successful prior work experience in the content area
6. The Assignment Review Panel makes a final disposition on whether to recommend that a teacher be assigned under EC §44258.3. The Assignment Review Panel informs the designee of the district of the results of the review.

**Note:**

- For assignments under EC §44258.3, the principal of the school, or other appropriate administrator, shall notify the exclusive representative of the certificated employees for that school district, as provided under Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, of each instance in which a teacher is assigned to teach classes pursuant to the section.
- Teaching assignments made pursuant to EC §44258.3 must be included in the annual report to the Commission on Teacher Credentialing as required by EC §44258.9 during the year the school district is monitored by the county office of education.
- The school district is also responsible for reporting to their county office of education during assignment monitoring activities instances when this assignment option is used. This reporting would most likely occur during the assignment monitoring activities in accordance with EC §44258.9. A school district may forward a copy of their board-approved policies that may assist the county office of education during the monitoring process.

**Attachment 3**

\_\_\_\_\_  
(Name of Employing Agency)

**Petition to Teach Departmentalized Subjects Under EC §44258.3**

*This form is to be used by a credentialed teacher and a site administrator to request verification of adequate knowledge to teach specified subjects in a departmentalized setting in kindergarten or any of grades 1 through 12 in accordance with EC §44258.3.*

Teacher: \_\_\_\_\_ SSN: \_\_\_\_\_

School: \_\_\_\_\_

Subject(s) being requested: \_\_\_\_\_

Initial Request

Subsequent Request

Briefly describe why you feel you have adequate subject-matter knowledge to teach the requested subject(s).

Check the additional criteria upon which this petition is based. Attach appropriate evidence for each criterion checked.

College/university course work

Relevant on-the-job experience or previous teaching in the subject area

Relevant volunteer experience

Subject-matter examination

Demonstrated competency in the subject to be taught

Portfolio related to subject(s)

Relevant professional growth activities

Recommendations from other subject-matter specialists or experts

Other (specify) \_\_\_\_\_

Describe any other circumstances or criteria to be considered regarding this petition. Attach any documentation that helps to substantiate this information.

If approved, I consent to the assignment under EC §44258.3.

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Teacher's signature

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Date

If approved, the teacher will be assigned to teach the subject area(s) requested on the front page of this form.

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Administrator's signature

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Date

**Attachment 4**

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*(Name of Employing Agency)*

**Assessment of Adequacy of Subject-Matter Knowledge**

*This form is to be used in assessing the adequacy of subject-matter knowledge of the subject(s) a teacher is petitioning to teach in a departmentalized setting, in kindergarten or in any of grades 1 through 12, in accordance with EC §44258.3.*

Teacher: \_\_\_\_\_ SSN: \_\_\_\_\_

Subject(s) being requested: \_\_\_\_\_

**Assessment Team Leader:** \_\_\_\_\_

**Assessment Team Members:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Subject-Matter Specialist on Team/Consulted

The assessment of the petitioner's adequacy of knowledge of the subject-matter and appropriate state framework for the subject(s) being requested yielded the following:

*Course of Study:*

**State Framework(s):**

The following methods were used to determine the adequacy of subject-matter knowledge of the petitioning teacher:

- Successful prior teaching of the subject
- Successful completion of intensive professional development in the subject
- Review of a portfolio containing evidence of demonstrated knowledge
- Results of a semi-structured interview
- Successful completion of college or university course work in the subject
- Passage of an examination related to the course, grade level and state framework for the subject to be taught
- Observation of the teacher in the subject and grade level currently being taught
- Observation of a demonstration lesson in the subject to be taught at the grade level to be taught
- Successful prior work experience in the content area
- Proof of professional performance in the content area
- Other (specify) \_\_\_\_\_

Based upon the assessments indicated, we recommend the following action:

**APPROVAL** of the petition based upon verification of adequate knowledge at a level justifying:

- Clear verification
- Approval with professional growth/support plan

**DISAPPROVAL** of the petition

The panel recommends that the following elements be included in the professional growth/support plan:

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Assessment Team Leader's Signature

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Date