

Date of Hearing: March 27, 2019

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 1219 (Jones-Sawyer) – As Amended March 18, 2019

**SUBJECT:** Teacher credentialing: certificated employee assignment monitoring

**SUMMARY:** Requires the Commission on Teacher Credentialing (CTC) to develop and implement a statewide automated State Assignment Accountability System (CalSAAS), for annual monitoring of teacher misassignments in schools, including charter schools. Specifically, **this bill:**

- 1) Finds and declares that continued monitoring of certificated employee assignments in local educational agencies (LEAs) will contribute to the statewide system of support and that annual monitoring of all certificated employee assignments through the CalSAAS is necessary to meet the reporting requirements of the federal Every Student Succeeds Act (ESSA).
- 2) Requires that the CTC and the California Department of Education (CDE) enter into a data sharing agreement, for the purpose of sharing data to provide LEAs with certificated employee assignment data necessary to identify vacant teacher positions and misassignments.
- 3) Requires that all LEAs and charter schools be monitored annually for teacher misassignments. Eliminates the requirement that LEAs be monitored 1) annually in the case of school districts that are likely to have problems with teacher misassignments and teacher vacancies, 2) annually for schools ranked in deciles 1 to 3 of the Academic Performance Index (API), and 3) on a four year cycle for all other schools.
- 4) Requires the data sharing agreement to encompass relevant certificated employee assignment data collected by the CDE, and requires the CTC to make certificated employee credential, misassignment, and other applicable data available to the CDE to support reporting consistent with ESSA.
- 5) Requires the shared data to be used to provide each LEA with a list of potential misassignments through the system that are based on both of the following:
  - a) a certificated employee's valid credential or credentials issued by the CTC
  - b) the certificated employee assignment data reported to the State Board of Education (SBE) by the LEA
- 6) Requires the CTC to use a nonpersonally identifiable educator identification number for the purpose of sharing data with LEAs.
- 7) Requires the CTC to administer the system to provide LEAs with a data system for assignment monitoring.

- 8) Requires a county superintendent of schools, with the funds allocated by the CTC (\$308,000 in federal funds as proposed in 2019-20) to county offices of education (COEs) for purposes of monitoring public schools and school districts for teacher misassignment, to ensure that these monitoring activities are completed on an annual basis.
- 9) Requires the superintendent of a school district to use the results of the annual monitoring to ensure compliance with requirements to ensure correct assignment of teachers, and the state Local Control and Accountability Plan (LCAP) priority on correct assignments.
- 10) Requires the applicable monitoring authority to review and determine any potential misassignments reported in and identified through the CalSAAS. Maintains the current authority for school districts and single school districts (including the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, and Sierra) and the City and County of San Francisco and establishes monitoring authority for charter schools as follows:
  - a) Requires the charter authorizer to serve as the monitoring authority for a charter school that is authorized by a school district or a COE.
  - b) Requires the CTC to serve as the monitoring authority for a charter school that is authorized by the SBE.
- 11) Requires final assignment determinations made by the monitoring authority to be based on all of the following:
  - a) a certificated employee's valid California credential or credentials, as reported by the CTC
  - b) certificated employee assignment data as reported to the SBE and included in the California Longitudinal Pupil Achievement Data System (CALPADS).
  - c) any additional assignment information that may be provided by the LEA and reported to the CTC through the system. This information may include the use of local assignment options outlined in any statute or regulation.
- 12) Provides an LEA that elects to provide additional information regarding a potential misassignment 60 days (rather than 30 days) from the date on which the potential misassignment report is generated in the system to provide the additional information.
- 13) Provides the monitoring authority 30 days from the date on which a LEA provides additional information to make the LEA's final assignment determination in the system.
- 14) States that if an LEA does not provide additional information on potential misassignments, the monitoring authority shall have 90 days from the date on which the potential misassignment report is generated in the system to make its final assignment determination in the system.
- 15) Eliminates the requirement that a county superintendent notify the CTC of the misassignment if the certificated school administrator has not corrected the misassignment within 30 days of

the initial notification, or has not described in writing the extraordinary circumstances which make the correction impossible.

- 16) Eliminates the requirement that a county superintendent of schools notify the superintendent of a school district in which 5 percent or more of all certificated teachers in the secondary schools are found to be misassigned to advise him or her to correct the misassignments within 120 calendar days.
- 17) Eliminates the requirement that a county superintendent of schools notify the CTC of misassignments if a school district superintendent has not corrected the misassignments within 120 days of the initial notification, or has not described in writing to the county superintendent the extraordinary circumstances which make the correction impossible.
- 18) Eliminates the authorization for the Superintendent of Public Instruction (SPI) to submit a summary of the reports submitted by county superintendents to the Legislature, and the authorization for the Legislature to hold hearings on the findings.
- 19) States that the CTC shall have the authority to make a final determination for all potential misassignments.
- 20) Requires the CTC to provide the CDE with annual data on the total number of misassignments at the schoolsite, school district, and county level.
- 21) Requires the CTC, commencing January 1, 2021, to make annual certificated employee assignment data generated from the system publicly available in a searchable format for the 2019–20 school year, and annually thereafter for each future school year. Requires that data for charter schools be distinguishable from data for traditional public schools within this public data.
- 22) Requires governing boards of school districts, commencing January 1, 2021, to use the most recent data reported by the CTC when reporting misassignment data in an LCAP and a school accountability report card (SARC).
- 23) Requires the CTC and the CDE, consistent with the ESSA state plan, to engage in activities designed to inform the administrative staff and certificated employees of LEAs of the statutes and regulations affecting the assignment of certificated employees for purposes of technical assistance.
- 24) States that a misassignment identified through the system may result in an LEA being subject to fiscal penalties (established in EC 45037).
- 25) Eliminates the requirement that the CTC establish reasonable sanctions for the misassignment of credential holders, after engaging in activities to inform administrators, teachers, and other personnel about the regulations and statutes affecting the assignment of certificated personnel.
- 26) Authorizes the CTC to promulgate regulations that define standards for an LEA that consistently misassigns certificated employees, and what sanctions, if any, to impose on that LEA.

- 27) Prohibits final misassignment data reported from the system from including any personally identifiable information, including names, social security numbers, home addresses, telephone numbers, or email addresses of individual certificated employees.
- 28) Prohibits the system and the data reported from the system from being used by an LEA for purposes of evaluating certificated employees, certificated employee performance determinations, or employment decisions.
- 29) Eliminates the requirement that the CTC submit biennial reports to the Legislature concerning teacher assignments and misassignments based, in part, on the annual reports of the county superintendents of schools. A similar provision is proposed to be added in AB 525 (Luz Rivas) of this Session.
- 30) Extends the process by which certificated employees report misassignments to charter schools, by requiring that the following occur:
  - a) after exhausting existing local remedies, a certificated employee employed by a charter school shall notify the administrator of the charter school, in writing, of the illegal assignment
  - b) if no action is taken after the notice is given, the certificated employee employed by a charter school shall notify the chartering authority, in writing, of the illegal assignment
  - c) in the case of an assignment by a charter school for which the certificated employee has filed a notice that the certificated employee has no legal authorization, the administrator of the charter school or the chartering authority shall advise the certificated employee about the legality of the assignment within 15 working days
- 31) Requires that, for purposes of a charter school authorized by the SBE, the certificated employee file the written notices regarding misassignment with the CTC.
- 32) Prohibits an LEA from taking adverse action against a certificated employee employed at a charter school who files a notice of misassignment.
- 33) Exempts a certificated employee employed at a charter school who files a written notice, during the period of a misassignment from a provision of current law prohibiting a warrant of payment for individuals lacking proper certification.
- 34) Requires that, if it is determined that a misassignment has occurred, a performance evaluation of the certificated employee employed at a charter school who is misassigned be nullified.
- 35) States that employees who have not yet attained permanent certificated status are not required to notify their superintendent in order to qualify for the protections above.

**EXISTING LAW:**

- 1) Requires each county superintendent of schools to monitor and review school district certificated employee assignment practices, as follows:

- a) Annually monitor and review schools and school districts that are likely to have problems with teacher misassignments and teacher vacancies, based on past experience or other available information.
  - b) Annually monitor and review schools ranked in deciles 1 to 3 of the API if those schools are not currently under review through a state or federal intervention program. If a review finds that a school has no teacher misassignments or teacher vacancies for two consecutive years, permits the next review to occur on a four year cycle, unless the school is believed to be likely to have problems with misassignment, based on past experience.
  - c) Annually monitor and review all other schools on a four-year cycle.
- 2) Requires each county superintendent of schools to investigate school and district efforts to ensure that credentialed teachers are properly assigned. (EC 44258.9)
  - 3) Makes the CTC responsible for the monitoring and review of those counties or cities and counties in which there is a single school district.
  - 4) Requires county superintendents to submit an annual report to the CTC and the CDE which summarizes the results of all assignment monitoring and reviews.
  - 5) Requires the CTC to submit biennial reports to the Legislature concerning teacher assignments and misassignments based, in part, on the annual reports of the county superintendents of schools.
  - 6) Requires the CTC to establish reasonable sanctions for the misassignment of credential holders, after engaging in activities to inform administrators, teachers, and other personnel about the regulations and statutes affecting the assignment of certificated personnel.
  - 7) Establishes certain procedures and requirements with respect to certificated employees who are misassigned, as follows:
    - a) Requires a certificated person who has been misassigned, after exhausting existing local remedies, to notify the county superintendent of schools in writing of the illegal assignment.
    - b) Requires county superintendent of schools, within 15 working days, to advise the affected certificated person concerning the legality of his or her assignment.
    - c) Prohibits adverse action taken against a certificated person who files a notification of misassignment with the county superintendent of schools, and nullifies any performance evaluation during the misassignment.
    - d) Nullifies any performance evaluation of an employee during a period of the misassignment.
  - 8) Requires the county superintendent of schools to notify a certificated school administrator responsible for assignments of a misassignment, and advise him or her to correct the assignment within 30 calendar days.
  - 9) Requires the county superintendent to notify the CTC of the misassignment if the certificated school administrator has not corrected the misassignment within 30 days of the initial notification, or has not described in writing the extraordinary circumstances which make the correction impossible.

- 10) Requires the county superintendent of schools to notify the superintendent of a school district in which 5 percent or more of all certificated teachers in the secondary schools are found to be misassigned to advise him or her to correct the misassignments within 120 calendar days.
- 11) Requires the county superintendent of schools to notify the CTC of the misassignments if the school district superintendent has not corrected the misassignments within 120 days of the initial notification, or has not described in writing to the county superintendent the extraordinary circumstances which make the correction impossible.
- 12) Authorizes the SPI to submit a summary of the reports submitted by county superintendents to the Legislature, and authorizes the Legislature to hold hearings on the findings.
- 13) Provides for a number of “local assignment options” which school districts may use to assign a teacher outside of their authorization. (EC 44256(b), 44258.2, 44258.7(c) and (d), 44263)
- 14) Requires that teachers in charter schools hold a CTC certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. Requires that these documents be maintained on file at the charter school and be subject to periodic inspection by the chartering authority. States the intent of the Legislature that charter schools be given flexibility with regard to noncore, non-college preparatory courses.
- 15) Requires teachers in countywide charter schools to be required to hold a CTC certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold.
- 16) Requires that these documents be maintained on file at the charter school and be subject to periodic inspection by the chartering authority. (EC 47605.6(l))
- 17) Authorizes complaints concerning vacancies and misassignments to be submitted through the Uniform Complaint Procedures. (EC 35186)
- 18) Requires the CTC to establish a non-personally identifiable educator identification number for each educator to whom it issues a credential, certificate, permit, or other document authorizing that individual to provide a service in the public schools.
- 19) Establishes, through regulations, a process for the CTC to use to compel compliance with statute on misassignments, including, as a final step, the option to take adverse action against the credentials of individuals found to be responsible. (CCR Title 5 80339.1-80339.5)
- 20) Defines, for purposes of the SARC, a “misassignment” to mean the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential, or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold. (EC 33126)
- 21) Defines, for purposes of the SARC, a “vacant teacher position” to mean a position to which a designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position of which a single-designated certificated employee has not been assigned at the beginning of a semester for an entire semester. (EC 33126)
- 22) Requires the SARC to include information on the school’s total number of fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, any assignment of teachers outside their subject areas of competence, misassignments, including misassignments of teachers of English learners, and the number of vacant teacher positions for the most recent three-year period. (EC 33126)

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

**FISCAL EFFECT:** This bill has been keyed a possible state-mandated local program by the Office of Legislative Counsel.

**COMMENTS:**

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

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

***Why does teacher misassignment matter?*** Research has established that teacher preparation and certification are by far the strongest correlates of student achievement in reading and mathematics, even when controlling for student poverty and language status. (Darling-Hammond, 2000). Teachers who are misassigned are by definition teaching content which they have not been certified to teach.

Teachers can also be negatively affected by misassignment, and it can contribute to their decisions to leave the teaching profession. Research has found that “out-of-field assignments are significantly correlated with decreases in teachers’ morale, engagement, and commitment.” (Ingersoll, 2003).

The intersection between high poverty schools, new teachers, high turnover, and misassignment is notable. According to the National Center for Education Statistics (2000), new teachers tend to be concentrated in high poverty schools. Misassignment is also more likely to occur at high poverty schools (Ingersoll, 2002), and misassignment appears to occur more often for new teachers. High poverty schools experience high turnover rates - on average losing over 20% of their faculty each year (Ingersoll, 2004). According to the Education Commission of the States (2005), “there is strong evidence that teacher attrition is most severe among beginning teachers.” There are many reasons why teachers leave high poverty schools, but in one longitudinal study, new teachers reported that “misassignment was a major source of ...dissatisfaction, eventually leading them out of teaching” (Johnson and Birkeland, 2003).

***History of misassignment monitoring in California.*** Interest in the issue of teacher misassignment dates to at least 1963, when James Conant noted, in *The Education of American Teachers*, the widespread “misuse of teachers” through out-of-field assignments. But the establishment of our current monitoring system was driven by concerns raised in the 1980’s. In 1985 (two years after the publication of the highly influential report, *A Nation at Risk*) the

American Federation of Teachers and the Council for Basic Education published a paper titled *Making Do in the Classroom*, which argued that state monitoring was insufficient and that “out-of-field teaching is out of control.”

According to the CTC, assignment monitoring in California was initiated in 1988. Initially, all districts were required to identify misassignments and report to the local governing board on an annual basis. COEs began annually monitoring educator assignments in 1989, and the CTC was required to report on assignments beginning in 1990.

In 2005, legislation implementing the *Williams v. State of California* settlement required all schools in the lowest three deciles on the state’s API ranking to be monitored annually. Prior to the *Williams* settlement, each public school in California was monitored once during a four year cycle. Monitoring of the lowest decile schools also focused on the assignment of teachers properly authorized to teach English learners, requiring monitoring of the qualifications of teachers with classes enrolling 20% or more English learner students. Currently, 30 percent of the public schools are monitored each year while 70% of public schools are monitored once during the four year cycle.

***How this bill would change misassignment monitoring.*** Below is a summary of the major changes to misassignment monitoring proposed by this bill:

Automation: Misassignment monitoring is currently a manual process. This bill would establish an automated process which would merge CDE data on course offerings in CALPADS with the credential data housed at the CTC. A match would be made using the unique educator identifier authorized in statute. The system would produce an exceptions report which would be sent to the LEA and COE, which would then work together to resolve the exceptions.

Single data system: The current misassignment monitoring system involves three assignment monitoring databases into which the COEs enter data manually. Under the proposed system, all actions of the LEA, the COE, and the CTC would be consolidated into one system.

Annual vs. four-year review: Currently, 70 percent of assignments are monitored every four years, and 30% of assignments are monitored annually. Under the proposed system, all assignments would be monitored every year.

Elimination of use of outdated API data. Since the API is no longer being calculated, outdated data is being used to determine which districts are in the bottom three deciles of the API and are subject to annual monitoring. Annual monitoring for all LEAs resolves the problem of outdated data being used to determine which districts are in the bottom three deciles of the API.

Role of COEs: The proposed system would require COEs to monitor all assignments every year. It is also intended to eliminate the need for COEs to check all assignments manually, since the automated system would verify all correct assignments, leaving the COEs to focus only on exceptions.

Support vs. sanctions: In keeping with the state’s new focus on support, the system emphasizes assistance through the statewide system of support, and removes a requirement to establish sanctions for persistent misassignment problems. The bill authorizes the CTC to



promulgate regulations that define standards for an LEA that consistently misassigns certificated employees and what sanctions, if any, to impose on that LEA.

Closing of the “contractor loophole.” The current definitions of misassignment (located in the SARC statute) have sometimes been interpreted to not include teachers who are employed on contract. This bill clarifies that all certificated educators are included in statutes on misassignment.

State-certified data available for SARCs and LCAPs. LEAs would receive state-certified, rather than locally-certified, data for inclusion in their SARCs and LCAPs.

One part of the process which would not change is the timing of the final determinations of misassignment for purposes of local reporting and for correcting current year misassignments. Final misassignment data would be available in the spring, rather than the summer, but it would still likely be too late to influence current year assignments, and be too late for inclusion in SARC and LCAPs. Data included in SARCs and LCAPs would continue to reflect prior year assignments.

***Phase-in plan.*** In order to ensure that the system functions as intended, the data is accurate, and that local staff are prepared and able to fulfill their responsibilities under the new system, the CTC has the following phase-in plan:

2018-19: The CTC has selected a contractor who is building their new data system, and is currently testing the system logic using 2017-18 school year data. Beginning in the summer of this year, when 2018-19 data becomes available, the CTC will conduct a pilot with a group of participating volunteer districts and COEs. No district or county will be required to participate in this pilot.

2020: This bill would take effect on January 1, 2020, and the system would be operational statewide. Monitoring for all schools would begin for the 19-20 school year.

2021: 2019-20 school year data would be posted in a searchable, online dashboard on the CTC’s website by January 1, 2021.

***Preliminary results of test run of CalSAAS system.*** During the 2018-19 school year the CTC conducted a test run of the CalSAAS. According to the CTC, their preliminary results show a baseline exception rate of 8.1% of all assignments. However, the CTC notes that this percentage is artificially high, and it expects the actual exception rate to be closer to 3.5% at the time of the CalSAAS launch. Factors causing the rate to be artificially high include:

- **Charter schools.** Roughly 20% of the exceptions occurred at charter schools. CTC believes that if non-core, non-college preparatory courses are excluded from those requiring teachers with appropriate credentials, the charter exception rate will be reduced by roughly 75%. The topic of charter school misassignment is explored in more detail below.
- **Other assignment options:** The CTC notes that there are two other assignment options that allow credentialed educators to teach outside of their credential’s authorization or subject areas: Local Assignment Options and Core Setting Assignments, which allow Multiple Subject Teaching Credential holders to teach departmentalized classes. The

CTC reports that when these assignment options were applied 75% of misassignments were cleared. The CTC reports that LEAs will have the opportunity to preload those assignment options, so the system will not generate an exception report for those assignments.

The CTC believes that these preliminary results shows that the logic for the system is solid, and that identified exceptions will decrease as LEAs become more accurate with their reporting.

***How is misassignment data used?*** Current state and federal law require that teacher misassignment data be published in several forms:

- On the LCAP, under Priority 1: Basic Services
- On the SARC
- To the Legislature, in the form of biennial reports
- To the federal government, to comply with the requirements of the ESSA
- On the CTC assignment dashboard published on the CTC website

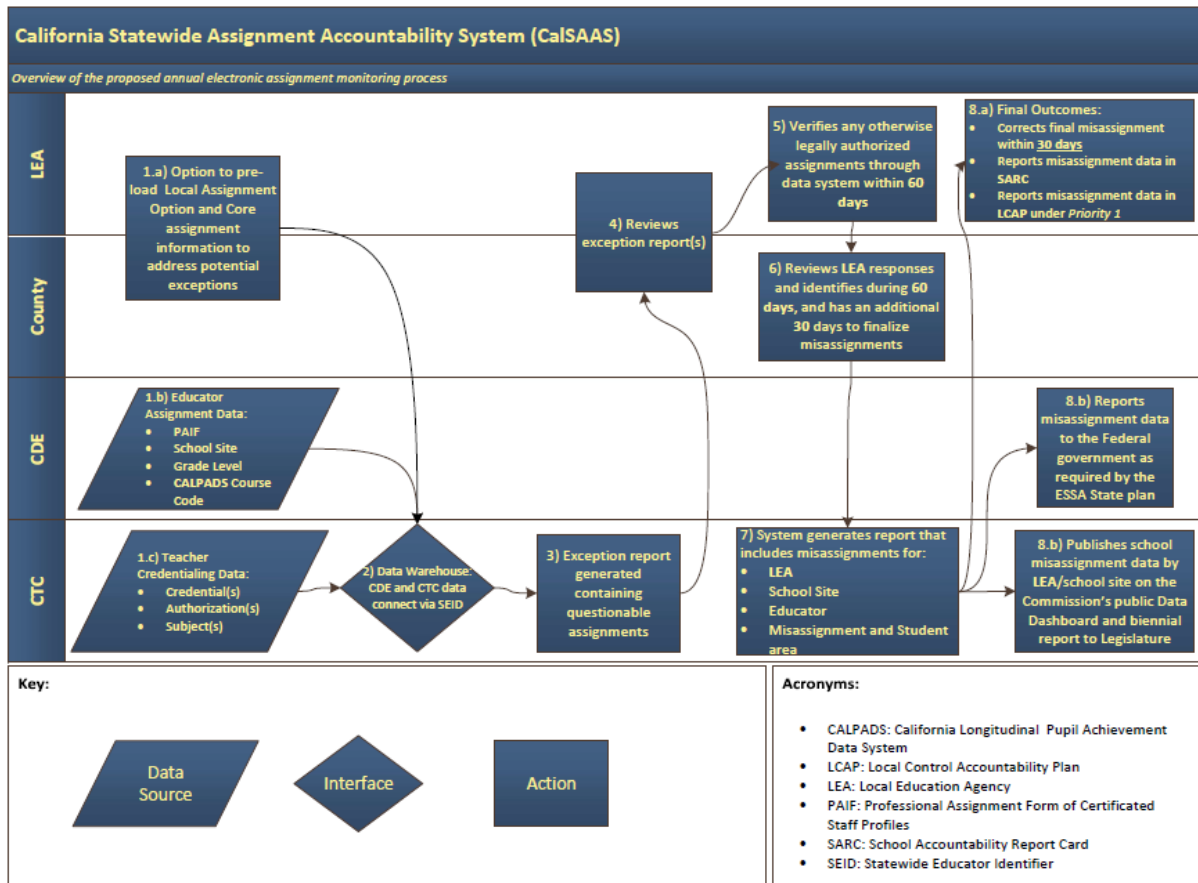
***The current system for monitoring misassignments.*** The current process for monitoring misassignments involves the following steps:

- 1) Counties request data from the ¼ of assignments from 70 percent of districts, and for all API decile 1-3 schools (based on 2012 API data). Districts provide all information about both educator credentials, assignments, courses, and use of local assignment options.
- 2) The COE reviews all educator assignments, and requests additional information of districts if needed. The COE identifies potential misassignments.
- 3) Districts respond to misassignments reported by the COE, and the COE identifies final misassignments and provides guidance on correction methods.
- 4) Districts have 30 days to correct misassignments and reports back to the COE.
- 5) COEs report to CTC in three different databases. CTC prepares a report to the Legislature.
- 6) For the Decile 1-3 schools, this data is then published on the CTC's website.

***How misassignment monitoring would change under this bill.*** The system proposed by this bill involves the following steps, which would occur on an annual basis:

- 1) LEAs, including charter schools, upload course information to CDE (as currently required).
- 2) CDE and CTC educator data are connected in a data warehouse using a unique educator identification number.
- 3) An exception report is generated and sent to the LEA and the COE.
- 4) The LEA verifies any legally authorized assignments within 60 days, and sends the information to the COE.
- 5) The COE reviews this information and verifies final misassignment data, and within 30 days and submits it to the CTC.
- 6) LEAs correct final misassignments within 30 days and reports it in the SARC and LCAP.
- 7) The CTC generates a final misassignment report and sends it to the LEA.
- 8) The CTC publishes misassignment data on its dashboard.

The following graphic illustrates the proposed new system:



**What’s the difference between a misassignment and a vacancy?** Under current law, “misassignment” refers to the placement of certificated employee in a teaching or services position for which the educator does not hold a valid and legally recognized certificate, credential, permit, or waiver with an appropriate authorization for the assignment or is not otherwise legally authorized for the assignment under another section of statute or regulation.

A ‘teacher vacancy’ is defined to mean 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 for which a single-designated certificated employee has not been assigned at the beginning of a semester for an entire semester. While current law does not define “the beginning of the year,” CTC documents suggest that it uses a definition of the first twenty days of the school year or semester.

**A low bar for teacher quality; properly assigned does not necessarily mean fully credentialed.**

A teacher who is not fully credentialed, but who holds the appropriate permit authorizing them to teach in the setting they are assigned does not count as a misassignment. For example, an uncredentialed teacher who holds a Provisional Internship Permit or a Short-Term Staff Permit is not considered misassigned, provided that her permit authorizes her to teach the subjects she is assigned to teach.

This sets a low bar for the qualifications of teachers when, as noted above, teacher preparation and certification are by far the strongest correlates of student achievement, both before and after controlling for student poverty and language status.

It also recognizes the constraints under which school districts operate. As the CTC states, “the Commission has attempted to balance the need for each individual to have the appropriate preparation and authorization for their assignment with the employer’s need for flexibility in assigning their staff to meet the unique circumstances found in their local context.” In times of shortage, such as the current one, when fully credentialed teachers are simply not available, it would seem unfair to hold schools to account for filling all positions with fully credentialed teachers.

But these constraints aren’t the only factor in misassignment. Ingersoll (2002) examined national data regarding assignments and found that “out-of-field teaching is not primarily due to school hiring difficulties resulting from teacher shortages. In contrast, the analysis shows that a number of aspects of the administration and organization of schools are significantly related to out-of-field teaching. For example, school district regulations concerning minimal education requirements for new hires, the quality of principal leadership, the strategies schools use to cope with teacher recruitment and hiring, and average school class sizes all have an independent association with the extent of out-of-field teaching in schools, after controlling for other factors.”

**Teacher misassignments in California.** Current law requires the CTC to submit biennial reports to the Legislature on the misassignment of teachers in California. The December, 2017 report, which draws on data from the four academic years between 2011 and 2015, included the following findings:

Table A: Comparison of Total Staff Monitored Relative to Misassignments, 1995-2015

	1995-1999	1999-2003	2003-2007	2007-2011	2011-2015	Change Between 2007-2011 and 2011-2015
Total Certificated Staff Monitored	250,000	363,000	353,368	339,152	330,818	-2.46%
Total Certificated Misassignments	7,447	9,112	22,352*	32,075*	23,048	-28.14%
Percent of Certificated Staff Misassigned	2.98%	2.51%	6.33%	9.46%	6.97%	

\* As a result of legislation, changes in the method of reviewing English learner assignments in 2004 and Special Education assignments in 2008 resulted in a higher percentage of identified misassignments.

- Misassignment data sensitive to changes in monitoring, but also policy changes. Significant changes in misassignment are sometimes due to changes in definitions of compliance. A change in the requirements for teaching children on the Autism spectrum, for example, resulted in significant numbers of misassignments. But improved compliance monitoring, for example in the case of qualifications to teach English learners required by the *Williams* settlement, also led to major improvements in assignments.
- Significant overall decrease in misassignments. There was an overall decrease of 28 percent in teaching misassignments for all schools in California when comparing the report cycles of 2007-11 and 2011-15. In total, a reduction of 9,027 teaching misassignments was achieved.
- English learner misassignments declined significantly. The total number of English learner instruction misassignments decreased by almost 84 percent between the 2007-11 and 2011-15 report cycles. The *Williams* settlement created additional emphasis on the review of the

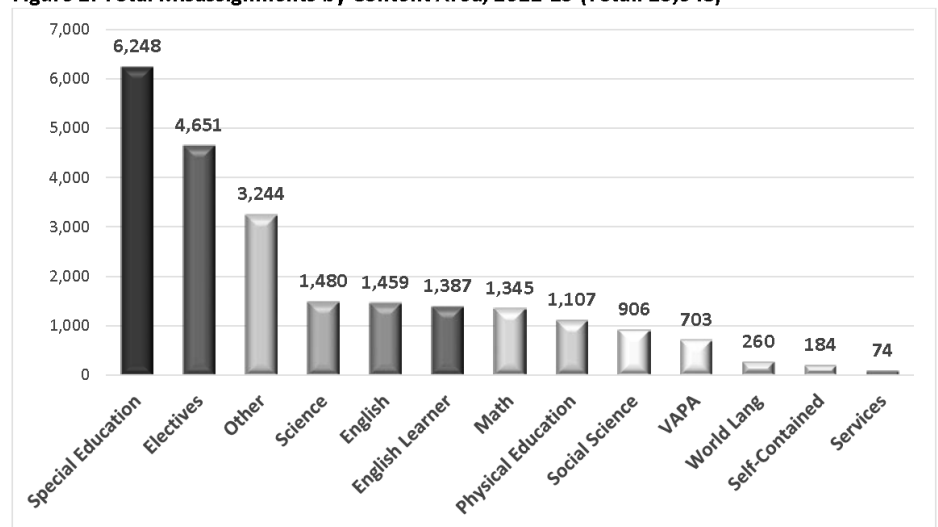
English learner instruction assignments. The unauthorized assignment of teachers for English learner students rose more than an 88 percent increase during the 2003-07 monitoring cycle compared to 1999-2003, and has since declined in the subsequent two cycles.

- Misassignments are concentrated in special education, elective courses, and “other” courses. Special education misassignments comprised 27 percent of the total. Following legislation regarding students on the Autism spectrum and changes in special education certification, there was an increased focus after 2008 on training how to monitor and identify special education misassignments based on disability. The CTC is currently engaged in a number of changes to special education credentials which may have the effect of reducing misassignments, including embedding the existing Physical and Health Impairments and Language and Academic Development specialty credentials into the Mild/Moderate and Significant Support needs specialty areas, leaving fewer credentials.

20 percent of misassignments are in elective courses, which include a wide variety of classes which do not fall directly within one of the statutory single subjects. The third highest content area for misassignments was “Other,” which accounted for 14 percent of the total. The “Other” category includes subjects such as Health, Home Economics, and Industrial Technology Education as well as non-traditional education settings and content such as Adult Education, Career Technical Education (CTE), and the Reserve Officers’ Training Corps (ROTC).

- Misassignments concentrated in middle and high schools. Likely connected to the higher rate of misassignment in elective courses, over 84 percent of all teaching misassignments were found to occur at the secondary school level (middle and high schools), with approximately 49 percent of misassignments identified at the high school level.

Figure 2: Total Misassignments by Content Area, 2011-15 (Total: 23,048)



- Vacancies on the rise? While the number of vacancies reported has decreased significantly since 2007-08, vacancy data for the last two years shows the totals increasing again. The total teacher vacancies doubled in the final year of the report to a total of 617 vacancies, possibly a result of the statewide teacher shortage.
- Similar patterns for API decile 1-3 schools. For the schools ranked in the lowest three deciles on the API in the 2013-14 and 2014-15 (using the 2012 base API) misassignment was similar to other schools. There was a total decrease of 33.4% in the number of misassignments between the 2013-14 and 2014-15 report years. Similar patterns of concentration in middle and high schools, special education were reported. Large declines in misassignment in special education and core subjects were reported. More than 99% of

classrooms with an EL student population of 20% or more were taught by an appropriately EL authorized teacher. There was also a significant increase in the use of local assignment options, as well as reported vacancies.

***Monitoring of misassignment at charter schools.*** Current law requires that teachers in charter schools hold a certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold.

Current law also states the intent of the Legislature that charter schools be given flexibility with regard to noncore, non-college preparatory courses. It appears that, in some charter schools, this intent language has been interpreted to mean that, for subjects other than core and college preparatory courses, charter schools have significant flexibility regarding the credentialing and assignment of teachers, including whether charter school teachers in those subjects must hold any credential at all.

However, the Senate Education Committee analysis of AB 544 (Lempert), Chapter 34, Statutes of 1998, which added this provision, specifically notes that: “*Flexibility*’ has been discussed as the ability to employ guest speakers and instructors with special permits or eminence credentials.” ***The Committee may wish to consider*** whether current practice comports with the intent of the Legislature when this provision was enacted, and how broadly this “flexibility” has been employed, when in fact this provision does not have the force of law.

Current law also requires that the appropriate documents be maintained on file at the charter school and be subject to periodic inspection by the chartering authority, but does not specify how frequently this is to occur. CDE is responsible for monitoring of misassignments at charter schools authorized by the SBE. As of 2017, there were 23 SBE-authorized charter schools and one statewide benefit charter that operates 6 schools.

This bill proposes to include charter schools in CalSAAS, establish authority for charter authorizers to monitor charter teacher assignments, and extends the same protections held by other teachers to charter school teachers.

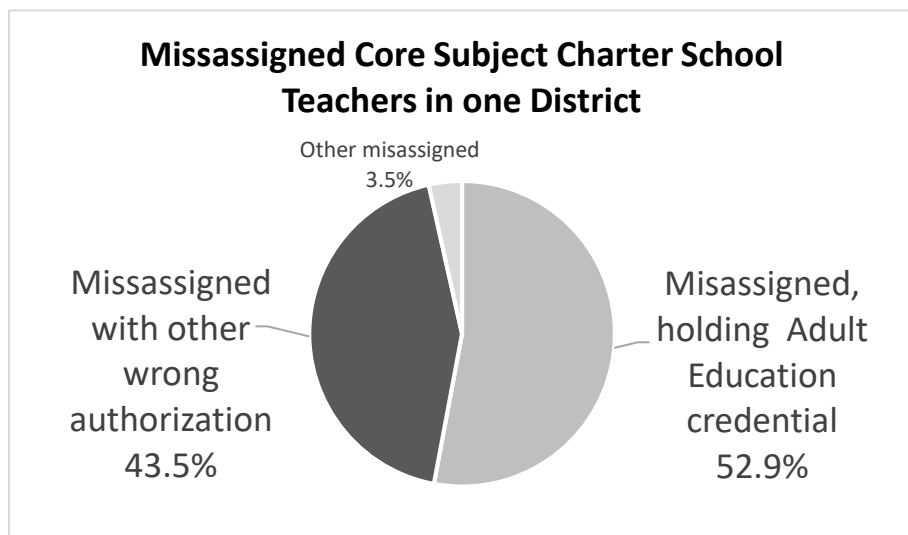
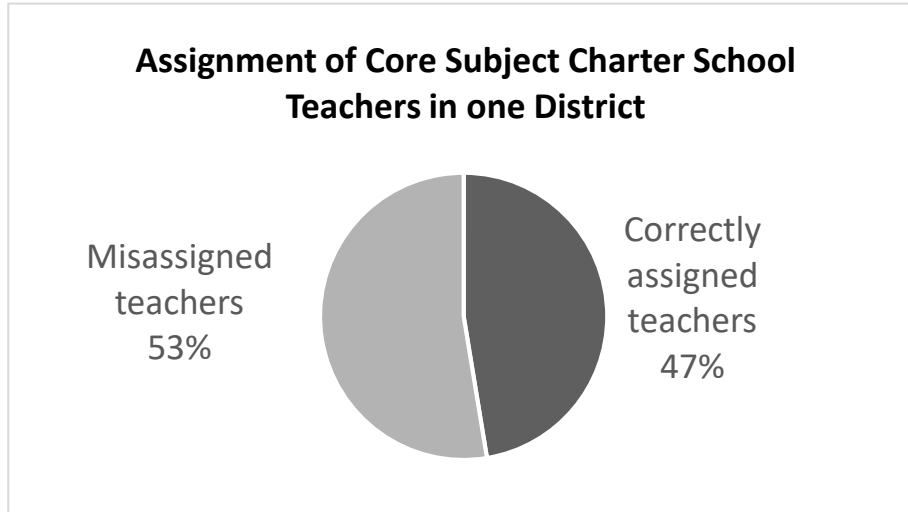
***Sample of charter school misassignment in one district.*** Since current law does not require the reporting of charter school misassignment data to the state, CTC does not have any statewide information on misassignment of teachers in charter schools. No information on assignments at charter schools is included in state reporting to the federal government.

However, the CTC has completed a trial of the new automated system in the districts which it is responsible for monitoring, and has preliminary data for one district’s charter schools. It should be noted that this data may not be representative of the state as a whole.

The data show that more than half (53 percent) of the teachers in core subject courses were misassigned, and that of the misassigned teachers, nearly 52.9 percent held Adult Education credentials.

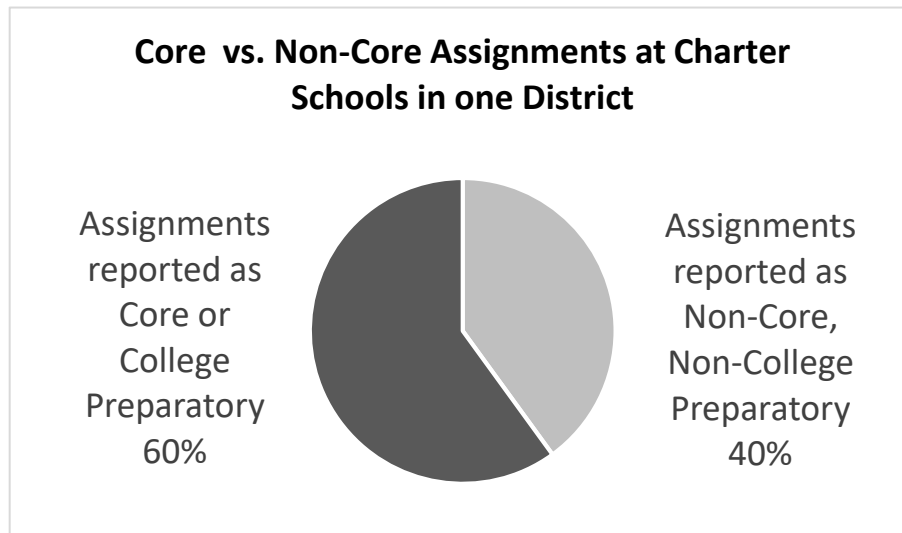
There are several forms of Adult Education credentials, the most common of which is the Designated Subjects Adult Education Teaching Credential, which authorizes instruction in “courses organized primarily for adults.” No education beyond a high school diploma is required for issuance of this credential unless the holder will teach an academic subject, and no pre-

service preparation program is required prior to issuance of the preliminary credential. If a holder of an Adult Education credential is assigned to teach a “core” assignment, as appears to be the case in this district, it is possible that he or she could be teaching an elementary school class.



In addition, nearly 40% of the assignments reviewed from this district were labeled “non-core, non-college preparatory,” for which intent language in the Education Code suggests that there should be “flexibility,” as noted above.

The CTC indicates that “non-core, non-college preparatory” means courses taught not in core subjects (not in English language arts, mathematics, history-social science, and science), courses that are not approved as meeting the admissions criteria for the University of California and the California State University (known as “A-G” courses), and courses not labeled as Advanced Placement (AP) or International Baccalaureate (IB). Obviously, any elementary school assignment would be considered “core” because students are receiving instruction in core subjects, as would any core subject course taught at a middle school.



A review of high school course catalogs from Fresno Unified School District, Davis Joint Unified School District, and San Jose Unified School District suggests that few high school courses meet the “non-core, non-college preparatory” criteria. Nearly all courses listed in those catalogs are in either in core subjects, are A-G approved, or are labeled AP or IB. Most of the courses which would be considered non-core, non-college preparatory are courses in physical education, English Language Development (though some are A-G approved) and self-contained special education (for which an Education Specialist credential is required). ***The Committee may wish to consider*** how 40% of assignments in a district’s charter schools could be considered non-core and non-college preparatory.

In the absence of clarification of the law regarding charter school teachers assigned to non-core, non-college preparatory subjects, the CalSAAS system will not identify teachers who do not hold the correct credential as misassigned, no matter what credential they hold. In other words, a teacher holding an adult education credential could teach a 7<sup>th</sup> grade Health course, or a teacher credentialed to teach elementary school could teach a course in Advanced Agricultural Engineering, Design, and Fabrication – and these would be considered correct assignments.

***Staff recommends that this bill be amended*** to require, notwithstanding any other provision of law, the CTC, when identifying misassignments using the new assignment monitoring system, to identify all public school teachers, teaching in any assignment, including those teaching at charter schools, as correctly assigned only when they hold the correct credentials, authorizations, and/or permits for their assignment, taking into account local assignment options.

***Current sanctions for persistent misassignment problems have never been used.*** Current law requires the CTC to establish reasonable sanctions for the misassignment of credential holders, after engaging in activities to inform administrators, teachers, and other personnel about the regulations and statutes affecting the assignment of certificated personnel. It also prohibits districts from issuing warrants of payment for individuals lacking proper certification, and authorizes the CDE to withhold apportionments over misassignments.

This bill proposes to eliminate the requirement that the CTC establish reasonable sanctions for the misassignment of credential holders and instead authorizes the CTC to promulgate



regulations that define standards for an LEA that consistently misassigns certificated employees and what sanctions, if any, to impose on that LEA.

According to the CTC, in 1993, regulations (Title 5 CCR 80339.1-80339.5) establishing compliance activities and potential sanctions were approved. The regulations outline a process for resolving misassignments which include, among other steps, the reading of a letter of non-compliance at a meeting of the governing board, and which may ultimately culminate in the “consideration of adverse action against the credentials of responsible certificated persons.”

Those sanctions have never been used. *The Committee may wish to consider* a number of questions regarding the sanction authority in current law:

- 1) After years of using sanctions to compel local change, the state’s focus is now on support and assistance. At the same time, the new annual, automated system may shed new light on misassignment problems and warrant retaining some means of enforcing the law.
- 2) The only “lever” the CTC has to compel an administrator to comply with the law is an action against their credential, a fairly blunt means of enforcing the law. In other areas of the law the CDE is able to withhold funds or take other actions.
- 3) The regulations place responsibility for the process in the hands of state and local assignment committees, neither of which appear to exist.

***Privacy of teacher information.*** Current law authorizes the CTC to establish a non-personally identifiable educator identification number for each educator to whom it issues a credential, certificate, permit, or other document authorizing that individual to provide a service in the public schools. This bill authorizes the sharing of teachers’ information between the CTC and the CDE. In order to protect teachers’ personal information, the bill prohibits the shared data from including names, social security numbers, home addresses, telephone numbers, or email addresses of individual teachers.

***Assignment monitoring of teachers of English learners.*** Current law requires, for monitoring of API decile 1-3 schools, that county superintendents annually collect data related to teachers serving in classrooms with a population of 20 percent or more English learner students at these same school sites.

According to the CTC, English learner enrollment in courses is available through CALPADS, so it will be possible for the new system to review assignments for qualifications to teach English learners, including those in bilingual settings. Monitoring specifically for the classrooms with 20 percent English learner enrollment would be replaced by monitoring of all assignments in all settings.

***State ESSA plan to use misassignment data from new system in “equity gap” reporting.*** In April of 2018, the SBE approved a plan for reporting to the federal government regarding the “equity gap” in teacher qualifications and experience for low-income and minority children enrolled in schools assisted under Title I, including “ineffective teachers,” and those teaching “out-of-field.”

In this plan, an ineffective teacher is defined as either 1) meeting the definition of a misassigned teacher, or 2) teaching without a credential. “Out-of-field” teachers are defined those who are credentialed but have not yet demonstrated subject matter competence in the subject area(s) or for the student population to which they are assigned. Under this definition, an “out-of-field”

teacher is one who holds a General Education Limited Assignment Permit (GELAP) or a Special Education Limited Assignment Permit (SELAP).

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

The CDE also stated that, beginning in the 2018–19 school year, LEAs will need to address equity gaps in the LCAP Addendum, and that "in reviewing LCAP Addenda, the [state] will only approve LEA plans that include descriptions about how the LEA will identify and address any disparities that result in low-income students and minority students being taught at higher rates than other students by ineffective, inexperienced, or out-of-field teachers." The state also committed, once the new misassignment system is operational, to "provide training to the relevant state and local educational agencies to promote statewide understanding of the new requirements as they relate to the LCAP process and to provide support in informing LEAs about the new teacher equity reporting process."

***Lack of state teacher database leaves state poorly positioned to establish and evaluate policy.***

The Legislative Analyst's Office, in their Analysis of the 2018-19 Governor's Budget, notes that the absence of a statewide data system that tracks teacher cohorts over time leaves the state poorly equipped to assess the outcomes of policy interventions, observe and anticipate workforce trends, and design policy to promote the preparation and retention of qualified teachers.

In 2006, the state created the California Longitudinal Teacher Integrated Data Education System (CALTIDES). The data system was created "for purposes of developing and reviewing state policy, identifying workforce trends, and identifying future needs regarding the teaching workforce." It also was "to provide high-quality program evaluations" and "promote the efficient monitoring of teacher assignments as required by state and federal law." The Analyst reports that the system would have linked teacher data across several state agencies, and that the state had dedicated years of preparation working through linkage and privacy issues among these agencies. The state had received \$6 million in federal funding to create the database. In 2011–12, the Governor eliminated authorization for the project, writing that his action was intended to "avoid the development of a costly technology program that is not critical."

***Recommended amendments.*** In addition to the amendment shown above, ***staff recommends that this bill be amended*** as follows:

- 1) Require that COEs serve as the misassignment monitoring authority over the school districts, statewide special schools, and charter schools that operate within the county, with the exception of those single district counties monitored by the CTC. The CTC would monitor those charter schools along with the other schools in those counties.
- 2) Clarify that, for purposes of any regulations the CTC promulgates that define standards for an LEA that consistently misassigns certificated employees and what sanctions, if any, to impose on that LEA, LEA includes charter schools.

- 3) To account for any data quality issues as the state transitions to the new automated system, establish the first year of data reporting under CalSAAS as a “hold harmless” year, during which no LEA or charter school can be sanctioned on the basis of the data.

***Prior and related legislation.*** AB 3048 (Irwin) of the 2017-18 Session would have required the CTC to develop and implement a statewide automated Teacher Assignment Monitoring Data System, for annual monitoring of teacher misassignments. This bill was held in the Assembly Appropriations Committee.

AB 190 (Ting), the proposed Budget Act of 2019-20, requires the CTC and the CDE to maintain a data-sharing agreement to provide the CTC with certificated employee assignment data necessary to annually identify misassignments, and to use the nonpersonally identifiable educator identification number for the purpose of sharing data with local educational agencies and the CDE.

SB 840 (Mitchell) Chapter 29, Statutes of 2018, the Budget Act of 2018, provided \$380,000 for the development of the SAAS.

The proposed trailer bill to the 2019-20 Governor’s Budget proposes similar language as this measure to implement the automated teacher assignment monitoring system.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Commission on Teacher Credentialing

**Opposition**

None on file

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