

Date of Hearing: April 25, 2018

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

AB 3048 (Irwin) – As Amended April 17, 2018

SUBJECT: Teachers: teacher assignment monitoring

SUMMARY: Requires the Commission on Teacher Credentialing (CTC) to develop and implement a statewide automated Teacher Assignment Monitoring Data System, for annual monitoring of teacher misassignments. Specifically, **this bill:**

- 1) Deletes the misassignment monitoring provisions of current law, and authorizes a new process commencing in the 2019-20 school year, as described below.
- 2) Defines “misassignment” to mean the placement of a certificated educator in a teaching or services position for which the employee does not hold a legally recognized credential with the appropriate authorization, or the placement of a certificated person in a teaching or services position that the educator is not otherwise authorized by statute to hold, or a vacant teacher position, as defined.
- 3) Defines a “vacant teacher position” 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, for a one-semester course, at the beginning of a semester for an entire semester.
- 4) Requires the CTC and the CDE to enter into a data-sharing agreement to provide the CTC with educator assignment data necessary to annually monitor and review schools, school districts, and county offices of education (COEs), and to identify misassignments.
- 5) States that the data-sharing agreement shall require the CTC to make teacher assignment data available to the CDE to support federally required reporting and state-required review of district performance as it relates to the state’s accountability system.
- 6) Prohibits data shared pursuant to the data-sharing agreement from being used, either solely or in conjunction with data from the California Longitudinal Pupil Achievement Data System (CalPADS), for purposes of pay, promotion, sanction, or personnel evaluation of an individual teacher or groups of teachers, or of any other employment decisions related to individual teachers other than for determinations that a teacher is not properly assigned.
- 7) Prohibits the data shared pursuant to the data-sharing agreement from including the names, social security numbers, home addresses, telephone numbers, or email addresses of individual teachers.
- 8) Requires the CTC to collaborate with COEs and local education agencies (LEAs) to develop, test, and implement a statewide Teacher Assignment Monitoring Data System.
- 9) Requires the CTC to annually engage interested stakeholders, including the CDE, COEs and LEAs in discussions about the functionality, performance, and impacts of the data system.

- 10) Based on these discussions, requires the CTC to submit a report to the Legislature within five years of the implementation of the data system that includes recommendations for potential improvements in the functionality, performance, and impacts of the data system.
- 11) Requires each county superintendent of schools to annually monitor and review all certificated educator misassignments, and assist LEAs which either:
 - a) have demonstrated recurring problems with teacher misassignments and teacher vacancies, or
 - b) are currently under review through a federal intervention program, have requested assistance through the statewide system of support, or are receiving assistance through the statewide system of support.
- 12) Requires the CTC, beginning with the 2019–20 school year, to annually verify that schools, school districts, and COEs that have educators serving in assignments requiring a credential hold the appropriate authorization for the instructional services provided.
- 13) Requires, when a potential misassignment has been identified by the CTC, the LEA responsible for the assignment, and the COE if the only LEA responsible for the assignment is a school district, be notified and provided an opportunity to review the assignment and determine whether the educator is otherwise legally authorized for the assignment.
- 14) Requires that, if the CTC does not receive a response within 30 days of the notification, the assignment be included in the CTC’s annual reporting for that year as a misassignment.
- 15) Requires that, to be considered valid, a determination submitted to the CTC and the COE be certified under penalty of perjury, and subject to verification by the COE or the commission.
- 16) Requires that, if a potential misassignment cannot be verified as legally authorized, the certificated administrator responsible for the assignment correct the misassignment within 30 days of final notification by the CTC, and report the correction method to the COE.
- 17) Requires that a potential misassignment that is not identified as otherwise legally authorized or that is not corrected within the 30-day timeframe be reported as a misassignment to the CTC by the COE by a date specified, by regulation, by the CTC.
- 18) Requires the COE to collect data on the number of vacant teacher positions in each school district as well as the number of complaints concerning vacancies and misassignments and report that data to the commission by the date specified by the CTC.
- 19) Requires that a county in which there is a single school district, including, but not necessarily limited to, the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City and County of San Francisco, report its determination regarding otherwise legally authorized assignments and correction methods for identified misassignments directly to the commission for review.
- 20) Requires the CTC to annually publish and retain misassignment data in a searchable, publicly available format.

- 21) Requires the CTC to submit biennial reports to the Legislature concerning teacher assignments and misassignments that include the results of all assignment monitoring and reviews.
- 22) Requires an LEA or COE that is identified as having one or more misassignments in a school year to develop a plan to ensure that such misassignments do not reoccur the following school year.
- 23) Requires the CTC or the COE to identify and report schools and school districts that have demonstrated recurring problems with teacher misassignments and teacher vacancies.
- 24) States that the Legislature may hold, within a reasonable period after receipt of a pertinent report, a public hearing on pupil access to educators and on related statutory provisions, as specified.
- 25) Requires, consistent with the California state plan addressing the federal Elementary and Secondary Education Act, the CTC and the CDE to engage in a variety of activities designed to inform school administrators, teachers, and personnel within COEs of the regulations and statutes affecting the assignment of certificated personnel for the purposes of technical assistance.
- 26) States that the non-personally identifiable educator identification number for each educator authorized in law shall be used for purposes of sharing data with LEAs and CDE to satisfy misassignment reporting requirements, and may also be used to disclose data for research purposes, pursuant to current law regarding the protection of research subjects.
- 27) Requires a certificated person who is required by an administrative superior to accept an assignment for which he or she has no legal authorization, after exhausting existing local remedies, to notify, in writing, the county superintendent of schools of the illegal assignment.
- 28) Requires the county superintendent of schools to, within 15 working days, advise the affected certificated person concerning the legality of his or her assignment.
- 29) Prohibits adverse action taken against a certificated person who files a notification of misassignment with the county superintendent of schools.
- 30) Requires that, during the period of the misassignment, the certificated person who files a written notification with the county superintendent of schools cannot have their pay withheld.
- 31) Nullifies any performance evaluation of a certificated employee determined to have been misassigned.
- 32) Requires that, when reporting a misassignment in a local control and accountability plan (LCAP) or a school accountability report card (SARC), the governing board of a school district use the most recent data provided by the CTC.

- 33) States that the Superintendent of Public Instruction (SPI) may submit a report to the Legislature on school districts and county offices of education that are not meeting state priority one of the LCAP.
- 34) Requires that the CTC periodically provide reports and recommendations to the Legislature regarding the state's teacher workforce for purposes of developing and reviewing state policy, identifying workforce trends, and identifying future needs regarding the state's teacher workforce. Requires that these reports be made publicly available on the CTC website.
- 35) Removes outdated references to the federal No Child Left Behind Act and to permits no longer issued by the CTC.

EXISTING LAW:

- 1) 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)
- 2) 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)
- 3) 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)
- 4) Requires LCAPs to include information on the degree to which the teachers of the school district are appropriately assigned and fully credentialed. (EC 52060)
- 5) Requires each county superintendent of schools to monitor and review school district certificated employee assignment practices, as follows:
 - a) Annually monitor and review schools and school districts that are likely to have problems with teacher misassignments and teacher vacancies, based on past experience or other available information.
 - b) Annually monitor and review schools ranked in deciles 1 to 3 of the Academic Performance Index (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.

- 6) Requires each county superintendent of schools to investigate school and district efforts to ensure that credentialed teachers are properly assigned. (EC 44258.9)
- 7) Makes the CTC responsible for the monitoring and review of those counties or cities and counties in which there is a single school district.
- 8) Requires county superintendents to submit an annual report to the CTC and the California Department of Education (CDE) which summarizes the results of all assignment monitoring and reviews.
- 9) 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.
- 10) 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.
- 11) 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.
- 12) 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.
- 13) 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.
- 14) 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.
- 15) 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.
- 16) Authorizes the Superintendent of Public Instruction (SPI) to submit a summary of the reports submitted by county superintendents to the Legislature, and authorizes the Legislature to hold hearings on the findings.

- 17) Provides for a number of “local assignment options” which school districts may use to assign a teacher (EC 44256(b), 44258.2, 44258.7(c) and (d), 44263) outside of their authorization.
- 18) 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.
- 19) 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. 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))
- 20) Authorizes complaints concerning vacancies and misassignments to be submitted through the Uniform Complaint Procedures. (EC 35186)
- 21) 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.
- 22) 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)

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

COMMENTS:

Need for the bill. The author’s office states: “County Superintendents of Schools and the CTC are required to monitor teacher assignments by reviewing certification and assignment records for certificated staff in public schools in California (Ed Code 44258.9). This monitoring is conducted in order to determine if the educator holds an appropriate credential and authorization for the position in which the educator is employed. Currently, they report the results of assignment monitoring for roughly one-quarter of all certificated staff in each county, creating a four-year monitoring cycle for all staff assignments in California.

California recently revised its Public Schools Accountability System and no longer uses the API index, or any other single index of school performance. By law, the CTC must conduct yearly monitoring of schools in the bottom three deciles based on API (*Williams vs. California*). The new California School Dashboard uses a more nuanced dataset that does not lend itself to a simple performance ranking. As a result, some of the previously bottom ranked schools have improved or others have seen their performance decline.

Additionally, current teacher assignment monitoring is outdated. Monitoring was initially introduced as a paper-driven process in 1990, but new technology now allows for a much more efficient and thorough annual reporting process. These changes allow the CTC to run an automated comparison of assignment data from CDE and data held at CTC. The majority of assignments can be reviewed through the automated process, leaving only the more complicated assignments to be resolved by CTC staff. This makes yearly teacher monitoring for all certificated staff, instead of every four years, much more feasible.

Since California now has the technological capability to monitor teachers on a more regular basis, this bill allows CDE to provide assignment information on all teachers annually, making government run more efficiently through an automated process and providing greater accountability of teacher assignments. This would satisfy the need for annual reporting of those schools ranked near the bottom of the Public Schools Accountability System since all teachers would be monitored annually. The bill also removes unnecessary references to the API system from teacher assignment monitoring statutes.”

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. County offices 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 that all schools in the lowest three deciles as determined by the state’s API scores 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% of more English learner students. Currently, 30 percent of the public schools are monitored each year while 70 percent 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 a unique educator identifier. The system would produce an exceptions report which would be sent to the LEA and COE, which would then work 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.

Closing of "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.

Data sharing for research. This bill permits the unique teacher identification number authorized by current law to be used to disclose data for research purposes, subject to current law protections for research on human subjects.

Funding. The Governor's Budget for 2018-19 proposes \$380,000 in one-time Teacher Credentials Fund to support this project.

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, this bill proposes a phase-in plan for the following academic years:

2017-18: CTC conducts a pilot with San Francisco Unified School District, a county for which the CTC is responsible for misassignment monitoring. Initial data is expected in the summer of 2018. Current law remains in effect for all other LEAs.

2018-19: CTC develops and conducts a statewide pilot. No manual monitoring is required among districts not participating in the pilot. There is no statewide reporting, though federal reporting is still required. Provisions of this bill take effect on January 1, 2019.

2019-20: New system operational statewide. Provisions of this bill are in effect.

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 School Accountability Report Card
- To the Legislature, in the form of biennial reports
- To the federal government, to comply with the requirements of the Every Student Succeeds Act (ESSA)
- In addition, the CTC publishes misassignment data on their website “dashboard”

What is a misassignment vs. 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 of 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 in reading and mathematics, 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 simply 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

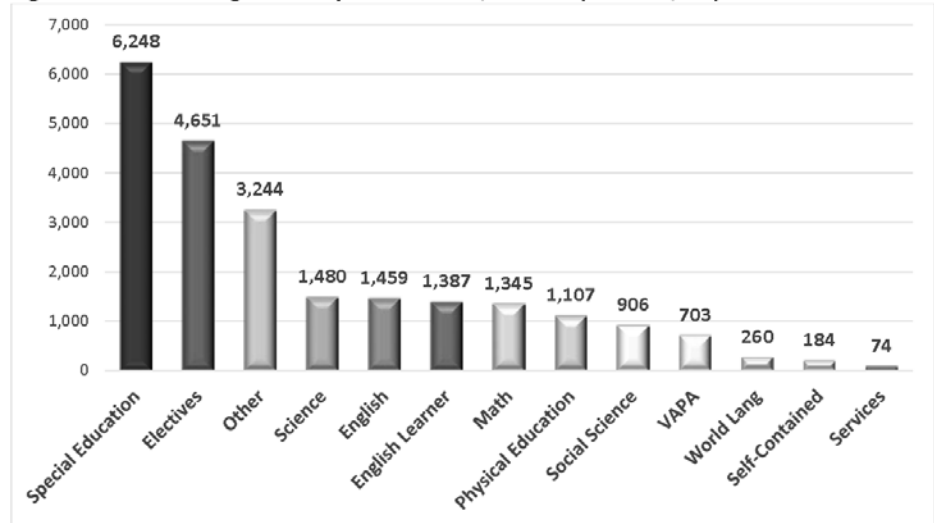
	1995-1999	1999-2003	2003-2007	2007-2011	2011-2015	Change Between 2007-2011 and 2011-2015
Total Certificated Staff Monitored	250,000	363,000	353,368	339,152	330,818	-2.46%
Total Certificated Misassignments	7,447	9,112	22,352*	32,075*	23,048	-28.14%
Percent of Certificated Staff Misassigned	2.98%	2.51%	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 vs. State of California* 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 in 2004 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.

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

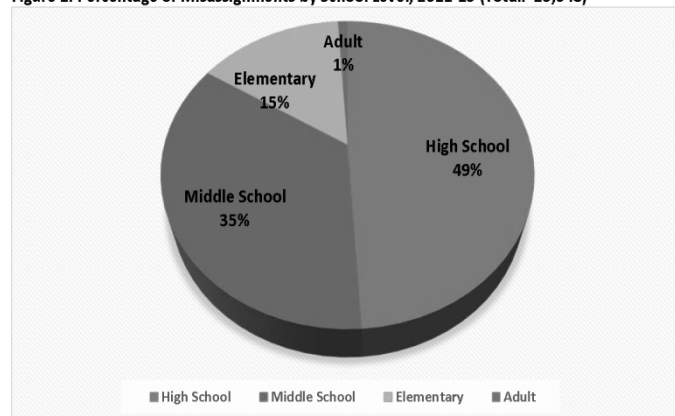


- Misassignments are concentrated in special education, elective courses, and “other” courses. Special Education misassignments comprised 27 percent of the total. Following legislation regarding students on the Autism spectrum and changes in Special Education certification, there was an increased focus 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 1: Percentage of Misassignments by School Level, 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) 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 a significant increase in the use of local assignment options, as well as reported vacancies.

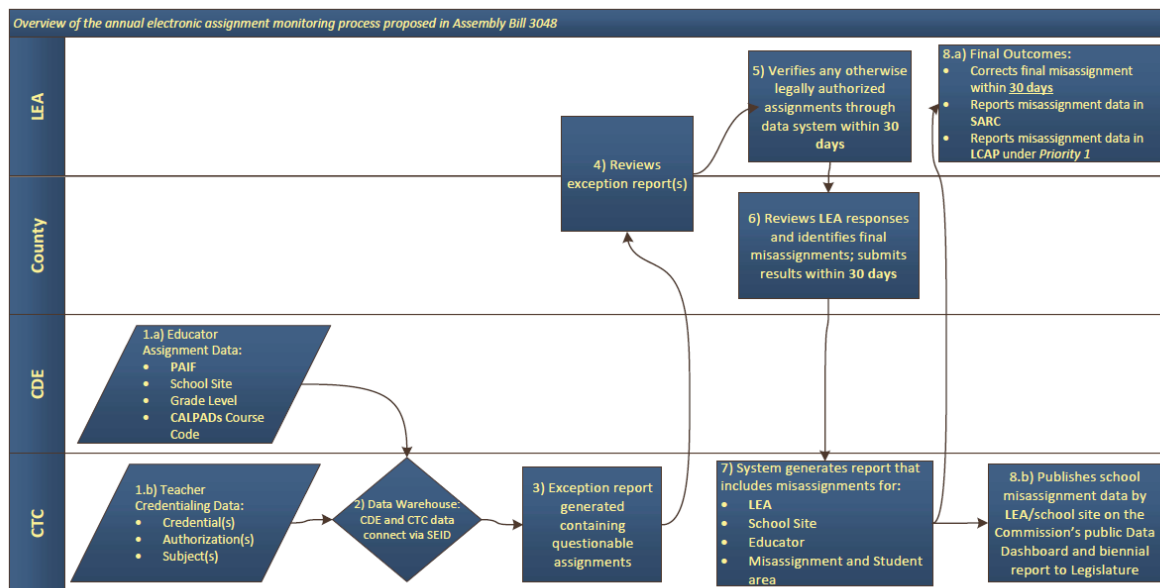
The current system for monitoring misassignments. The current process for monitoring misassignments involves the following steps:

- 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 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 30 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) The CTC generates a final misassignment report and sends it to the LEA.
- 7) The LEA has 30 days to correct the misassignments.
- 8) The CTC publishes misassignment data on its dashboard and in a biennial report to the Legislature.

The following graphic illustrates the proposed new system:



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. This bill proposes to eliminate the authority to establish sanctions.

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) Charter school administrators do not have to hold administrative services credentials, so sanctions based on adverse actions against credentials would not have any effect for an uncredentialed charter school administrator.
- 4) The regulations place responsibility for the process in the hands of state and local assignment committees, neither of which appear to exist.

Given the number of unknowns regarding the effect of the new system authorized by this bill, **Committee may wish to consider** whether the authority to establish them should be maintained, as an option for the CTC to use.

State ESSA plan to use misassignment data from new system in “equity gap” reporting. In April of 2018, the State Board of Education 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.”

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. This has been interpreted to mean that, for subjects other than core and college preparatory courses, charter schools have significant flexibility regarding the assignment of teachers. The flexibility is not provided for teachers at county-wide charter schools, who must hold the appropriate credential in all courses.

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. Current law does not require charter schools to report misassignment data to the state, and as a result CTC does not have any information on misassignment of teachers in charter schools, and no information on assignments at charter schools is included in state reporting to the federal government.

CDE is responsible for monitoring of misassignments at charter schools authorized by the State Board of Education (SBE). As of 2017, there were 23 SBE-authorized charter schools and one statewide benefit charter that operates 6 schools.

Because charter schools are already subject to monitored for misassignments, and because the new system is intended to create efficiencies through automation, ***staff recommends that the bill be amended*** that charter schools be included in the new system, in the manner as follows:

- Include charter schools in the process established by this bill for LEAs, including, but not limited to, data matching, timelines for resolution, and state, local, and federal reporting.
- Require that authorizers, in consultation with COEs, monitor charter schools in the same manner as is done for LEAs, for the course assignments requirements to which charter schools are subject.
- Require that state-authorized charter schools be monitored by the CTC, as they do for single-district counties, such as San Francisco.
- Clarify that teachers at charter schools are subject to the same employee rights and protections, as applicable, as teachers in other public schools.

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 to include names, social security numbers, home addresses, telephone numbers, or email addresses of individual teachers.

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% 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% English learner enrollment would be replaced by monitoring of all assignments in all settings.

Lack of state teacher database leaves state poorly positioned to establish and evaluate policy. This bill permits the unique teacher identification number authorized by current law to be used to disclose data for research purposes to the University of California, a nonprofit educational institution, or another nonprofit entity, provided the request for information is approved by the Committee for the Protection of Human Subjects for the California Health and Human Services Agency or an institutional review board.

The Legislative Analyst, 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. *Staff recommends* that this bill be amended as follows:

- 1) Include charter schools in the new misassignment monitoring system, in the manner described above.
- 2) Add “and other personal electronic accounts” to the provision protecting teacher data in the new system.
- 3) Eliminate the requirement that data be submitted under penalty of perjury
- 4) Maintain current law authorization to establish sanctions for persistent misassignment problems, but make this authority permissive (“shall” to “may”)
- 5) Authorize CTC to withhold data for state reporting purposes only (not to include local and federal reporting), if the data received in the first full year of implementation of the system does not appear to be accurate.
- 6) Clarify that the definitions of misassignment and vacancy apply to all educators.
- 7) Strike an unnecessary reference to the School Accountability Report Card.

REGISTERED SUPPORT / OPPOSITION:

Support

California Commission on Teacher Credentialing (sponsor)
Public Advocates

Opposition

California Teachers Association

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