



California Association  
Of Substitute Teachers

*"There is no substitute for a great substitute teacher"*

## Proposed Amendments to AB 312 as Introduced

### TITLE:

## The Substitute Teacher Appreciation Act of 2021

### SECTION 1: INTENT

**Subsection 1:** The intent of The Substitute Teacher Appreciation Act of 2021 is to establish more ways to get Substitute Teachers into the classroom while saving Districts time, resources and money. This will be done by recognizing the important role Substitute Teachers play in the educational system while expanding the Substitute Teachers Pool in an effort to strategically cover the community's needs by enhancing professionalism, skill levels, safety skills and educational quality.

### SECTION 2: DEFINITIONS:

**Subsection 1:** The intent of this section is to define commonly used terms that are found in this Act and used in public practice;

#### **Subsection 2:**

- 1) **Substitute Teacher:** A Substitute Teacher, as defined in this Act, is someone who upon appointment or approval, has met the Credential requirements established by the State of California, as outlined in this Act, to hold the specifically defined Credential(s);
- 2) **Guest Teacher:** The term Guest Teacher may be substituted for the term Substitute Teacher, in law and public practice, when appropriate;
- 3) **Substitute or Guest Teacher Employee Status:** For the purposes of this Act, it has been determined that the person who uses this Credential in the Stream of Educational Commerce, is an employee under the laws and practices of the State of California, and as such, shall be vested with the appropriate benefits and treatment;
- 4) **Substitute Teacher Pool:** The Substitute Teacher Pool is defined, for the purposes of this Act, as the combined pool of Credentialed Employees eligible to undertake work in a school district or districts, based on the earning or awarding of the Substitute Teacher Credential, as defined under this Act;
- 5) **Credentials:** Credentials are defined for the purposes of this Act, as an Award or Certificate given to an individual who has met the qualifications established by the State of California to hold said Credential or Award. The holding of this Credential indicates that they are eligible and suitable for a specific line or work, which in the case of this Act, is teaching in a school as a Substitute Teacher;
- 6) **Credential Title:** The title of the Credential held by employees who have met the state's established criteria currently is entitled a "**30 Day Emergency Permit**". This permit is a Credential that allows a Substitute Teacher to teach in a classroom for 30 (Thirty) consecutive business days. With the passage and enactment of this Act, the new name of the Credential shall be the "Substitute Teacher's Professional Credential."
- 7) **Training:** Training is defined for the purposes of this Act in two specific ways, both of which must be fulfilled:

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- a. First, a course of material or actions that a person needs to obtain or master in order to achieve or earn the Credential;
  - b. Second, the continued training needed by the individual who holds the Credential in order to maintain that Credential and use it in the Stream of Educational Commerce;
- 8) **Blacklist:** A Blacklist is defined by this Act as an action taken by an authority or group, who has compiled a list of people or entities that are to either be avoided, distrusted, barred or deemed unacceptable for work at a school or in a school district;
  - 9) **Pay Period:** A pay period, as defined for this Act, is a recurring length of time for which Substitute or Guest Teachers are paid their earned salaries. Payment of salaries under this category shall be bi-weekly;
  - 10) **Background Check:** A Background Check, as defined under this Act, is a report conducted to determine an applicant's eligibility based on fingerprints, as determined by the Department of Justice and respective appointed Law Enforcement entities;
  - 11) **Continuing Education:** Continuing Education, as used in this Act, is defined as a program of classes for Credential Holders, offered by an approved entity, that is designed to update the knowledge and skills of the Credential Holder, in a professional manner, for use in a classroom;
  - 12) **Degree Competency:** Degree Competency, as defined, is what a potential Credential Holder or successful Credential Employee, should know and be able to do upon completion of a particular program or course of study. It is the responsibility of the Credential Holder to maintain their Credentials in good standing.

### **SECTION 3: SUBSTITUE TEACHER POOL: Creation**

**Subsection 1:** The intent of this section is to create a Substitute Teacher Pool that ensures that there are enough Credentialed Employees available to meet a county or district's given needs, on any given day, while establishing uniform skill levels and pay rates in an effort to protect employee's rights, while helping them perform professional duties.

**Subsection 2:** By Jan. 2022, all County Offices of Education located in California shall establish the following:

- A Countywide Substitute Teacher Employment Program or System;
- Determine the number of Credentialed Employee needed to maintain district needs;
- Facilitate the creation and implementation of hiring programs to fill those needs;
- Establish a base, uniform and incentivized pay schedule that recognizes skill level, dedication, total classroom hours and duties of Credential Holders;
- The Program shall be designed to include the following concepts:
  - o The Substitute Teachers shall be allowed to register in the county of their choice;
  - o Substitute Teachers shall only have to register once per county, and that registration shall take place with the County Office of Education;
  - o Substitutes, once registered, are eligible to work in any of the school districts located within the jurisdiction of the County Office of Education;
  - o The Background check, as defined in this Act, shall take place at the county level and shall be recognized in all districts located in the county;
  - o Each district located in said county, shall establish their pay, based on their publically adopted operational budget;

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- When advertising open positions on their official job board, the rate of pay shall be included along with the location, grade level, contact person, subject, phone number, duties and reporting and ending time(s);
- In accordance with established policy, it shall be up to the Substitute Teacher to accept any offered job and rate of pay, or decline the job opportunity unless they are assigned by the District;
- Anyone assigned under this Act without approval shall be notified in advance and be paid \$25 (Twenty-five Dollars) more per day;
- Jobs scheduled by either party, may be suspended, ended or revoked. If a job is revoked by the District, school or employee with less than 24 (Twenty-four) hours' notice, the District shall pay the Credentialed Employee, as defined in this Act, a cancellation fee equal to the sum of \$50 (Fifty Dollars);
- Substitutes who cancel with less than 24 (Twenty-four) hours' notice, unless under medical authority, shall not be eligible to work for seven calendar days;
- All person's eligible to hold this Credential under the laws of California, shall be deemed and treated as employees, shall be paid bi-weekly;
- Pay for said Credentialed Employees shall be forwarded by the respective School Districts to the County Office of Education;
- The County Office of Education shall be responsible for paying any and all Credentialed Employees under this Act in a timely fashion;
- The County Office of Education shall charge a nominal fee for this service, payable equally by all Districts;
- To be eligible under the provisions of this Act, the Credential Holder shall maintain their Credential status in good standing.

**Subsection 3:** The penalty for non-compliance with this section is \$500 (Five Hundred Dollars) per incident.

**SECTION 4: CREDENTIALS:**

**Subsection 1:** The intent of this section is to streamline the Substitute Teacher Credential application process in an effort to attract the highest quality Credential Holder and future Classroom Employee.

**Subsection 2:** The Credential currently held by Substitute or Guest Teachers is entitled a 30 Day Emergency Permit. With the passage and enactment of this Act, the name of the Credential shall become the Substitute Teacher's Professional Credential.

**Subsection 3:** All who obtain these Credentials must meet all aspects of the established criteria found under this section of the Act.

**Subsection 4:** Credentials shall be awarded to anyone who meets the following requirements:

- Has earned a 4 (Four) year degree from an accredited college; or
- Has earned a degree approved by the State of California; and
- Who has passed a background check by the State of California and Department of Justice; and
- Who has passed the required designated test; and
- Who has paid their fees and are considered members in good standing.

**Subsection 5:** Credentials shall be issued and last for 3 (Three) consecutive years.

**Subsection 6:** The fees for said Credential shall be equal to the sum in effect during the 2018-2019 school year multiplied by three. (NOTE: I believe that the cost was \$115, which would mean that the overall cost should be somewhere in the neighborhood of \$345).

**Subsection 7:** Credentials shall be presented to the County Office of Education in the county the Credentialed Employee opts to work in before they can start working.

**Subsection 8:** Credentials issued by the State of California and presented to, and accepted by the County Office of Education, shall be recognized by all school districts operating within the County Office of Education's jurisdiction.

**Subsection 9:** Employees must pass a single background check via fingerprints at the county level to be eligible to teach in all districts in that county.

**Subsection 10:** The cost for the background check, upon passage, shall be borne by the County Office of Education and split among all schools in the District equally.

**Subsection 11:** In order to maintain said Credential, within the three-year period, all Credential Holders must earn twelve credits of Continuing Education, as defined in this Act. Continuing Education courses can be taken all at once or over the three-year period the Credential Holder is Credentialed.

**Subsection 12:** County Offices of Education shall establish reasonable criteria for vendors to follow for those who wish to train Substitute Teachers in their district. They can also provide the classes, and charge reasonable fees for those classes;

**Subsection 13:** Continuing Education Courses, for the purposes of this Act, shall fall into the following categories:

- Classroom Management;
- First Aid and Safety Training;
- Computer use and management;
- Degree Competency shall be defined in the following section (Notice: For example: if someone earns a Social Studies Degree, they should be required to update their knowledge in that area regularly);
- Employee rights and responsibilities;
- District Training Classes (Note: this will include, but not be limited to, learning district policies, practicing emergency drills and the use of computer programs and equipment that the Substitute is expected to use while in the classroom or for distance learning).

**Subsection 14:** Every 3 (Three) years, Credential Holders must take at least 1 unit of Continuing Education per category listed in Section 4, subsection 13.

**Subsection 15:** No courses mandated under this Act shall exceed \$50 (Fifty Dollars). All courses paid for by the Credential Holder shall be considered a business expense.

## **SECTION 5: TRAINING:**

**Subsection 1:** The intent of this section is to establish training standards for Substitute or Guest Teachers in an effort to help them perform professionally and reliably in a classroom setting, and thus deliver the highest level of education, support and training to our students, especially in emergency situations;

**Subsection 2:** All Substitute or Guest Teachers shall receive two types of categorical Training. The first category shall be Continuing Education, as outlined in this Act, with the second being District Training Courses as outlined in Section 4, subsection 13;

**Subsection 3:** Continuing Education requirements are found in Section 4, Subsection 13 of this Act;

**Subsection 4:** Degree Competency and Continuing Education definitions and requirements, for the purposes of this Act, are found in Section 2 and Section 4 of this Act, respectively;

**Subsection 5:** All Credentialed Employees under this Act shall be required to complete twelve units of Continuing Education, as outlined under Section 4 of this Act;

**Subsection 6:** One credit shall be awarded for every 7 (Seven) hours of course work;

**Subsection 7:** First Aid Education shall be required by all who are employed under these provisions. First Aid training shall include, but not be limited to the following:

- a. Emergency Training; and
- b. CPR Training; and
- c. First Aid Specifics; and
- d. Basic Germ identification and eradication concepts; and
- e. Covid-19 protections and procedures.

**Subsection 8:** The Fees associated with implementing this subsection's meanings and concepts shall be as follows:

- Courses and fees required for Continuing Education shall be borne by the Credential Holder and not to exceed \$50 (Fifty Dollars);
- Courses required by the County shall be paid for by the County and shall include, but not be limited to Lock Down Drill Practice, institutional policy and Safety Reporting Instructions. Substitute Teachers shall not be charged for this instruction;
- All employees who take required courses by the County, under these provisions, shall be paid a full day's pay for their attendance;
- The pay shall be the district average for pay received by holders of this Credential.

**Subsection 9:** If a Substitute or Guest Teacher undertakes trainings under these provisions, all districts within the jurisdiction of the County Office of Education shall recognize these trainings as long as they were approved or provided by the County Office of Education;

**Subsection 10:** These provisions become effective starting on Jan. 1, 2022.

**Subsection 11:** Substitute Teachers who have completed and become certified under an official Red Cross Safety Training program, under the provisions of this Act, shall earn \$25 (Twenty-five Dollars) more per day in salary;

**Subsection 12:** Substitute Teacher Trainings can be conducted by the District, a contracted business or a certified safety provider;

## **SECTION 6: BLACK LISTS**

**Subsection 1:** The Intent of this section is to not only help correct improper behavior by Credential Holders, but protect the Credentialed Employee pool in an effort to meet the County's standards and needs. This will be accomplished by establishing Due Process procedures and eliminating secret Blacklists in California's school districts.

**Subsection 2:** The State Legislature, in enacting these provisions, instructs all County Offices of Education to create or enhance Employee Appeals Process for Substitute Teachers. This shall be done by establishing policies and procedures that follow and recognize the following:

1. School districts, schools and educators use Blacklists, as defined, to discipline and eliminate Substitute or Guest Teachers from the Substitute Teacher Pool; and
2. When they are Blacklisted, Substitutes or Guest Teachers are not told, even though being placed on this list amounts to a restraint of trade because it results in an unfair lifetime ban on employment that is reportable in any district they apply for work;
3. Because of these actions, Credential Holders are denied their Due Process Rights;
4. There is a shortage of Substitute or Guest Teachers in California and reforming this practice while training and enhancing current Credentialed Employees will help quality Credential Holders succeed in the classroom;

**Subsection 3:** Schools can create Blacklists and place Substitute or Guest Teachers on them as long as all of the following are complied with:

- a. The Credential Holder is notified that they were placed on the Blacklist, why they were placed on it, what the charges are, as well as what their rights are under California law,
- b. Notification must be made in writing, and delivered by certified mail within 7 (Seven) business days of being placed on the Blacklist;
- c. The County Office of Education must establish an appeals process and notify all current Credential Holders of said process, as well as instruct future employees as to what the process is;
- d. The Credential Holder has the right to confront evidence and call witnesses, as well as enter evidence that supports their positions and refutes said claims against them;
- e. All material and evidence must be presented to both sides before the hearing;
- f. The appeals process must include a written narrative by all parties, and a hearing on that narrative within 30 (Thirty) to 90 (Ninety) days, with a decision rendered within 30 (Thirty) days for a maximum of 120 (One Hundred and Twenty) days;
- g. A Credential Holder shall be allowed to perform duties within the County, but not at that school in question, until a decision is awarded;
- h. The hearing shall be conducted by an appointed sub-committee;
- i. This sub-committee shall be appointed by the County Office of Education's Board of Directors during a public hearing;
- j. Each case shall have a new subcommittee appointed;
- k. Committees must consist of an odd number of people, with 3 (Three) being the minimum number. One shall represent the County Office of Education, one shall

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represent the district where the problem occurred and one shall be a Substitute Teacher;

- l. All decisions by the sub-committee shall be written and approved by a majority vote of the County Office of Education's Board of Directors;
- m. Blacklist bans cannot last longer than 1 calendar school year;
- n. If the ban is appealed, it does not go into effect until a decision is rendered;
- o. Should either party not agree with the decision, they shall be able to take proper proceedings before a court of law with in the applicable jurisdiction.

**Subsection 4:** Penalties for non-compliance with these provisions are as follows:

- a) Failure to comply with these provisions is a civil penalty;
- b) Violation by the district is \$500 (Five Hundred Dollars) per day, per violation;
- c) If a Credentialed Employee files a false complaint, the Credential Holder shall become ineligible to teach within the Jurisdiction of said County and shall pay a fine of \$500 (Five Hundred Dollars).

**Subsection 5:** Applicability

This act does not apply to Substitute Teachers who are on the Blacklist for the commission or conviction of felonious crimes of any type as defined in the California Penal Code.

## **SECTION 7: PAY PERIODS**

**Subsection 1:** The Intent of this section is attract more Substitute or Guest Teachers by speeding up pay for Credentialed Employees;

**Subsection 2:** All Employees of a school district, as defined by this Act, not personally covered by direct union representation, shall be paid bi-weekly;

**Subsection 3:** Failure to comply with this statute is a civil penalty that can incur fines of up to \$500 (Five Hundred Dollars) per violation, per day.

## **SECTION 8: BUDGET ALLOCATIONS**

**Subsection 1:** The intent of this section is to help pay for the enactment and operations of the provisions of this Act;

**Subsection 2:** The sum of ----- shall be awarded to each County Office of Education to help them implement the provisions of this Act within the time described.

**Subsection 3:** The County Office of Education can:

- Charge vendors who they certify to teach continuing education a reasonable fee;
- Charge a reasonable fee for classes that they conduct that are not District mandates in accordance with this Act not to exceed \$50 (Fifty Dollars);
- County Office of Education's shall have the ability to charge each district under their jurisdiction an equal share of the overhead or operational costs for this program.

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