



California Association Of Substitute Teachers

(916) 923-2215

Assemblymember Seyarto
State Capital
Sacramento, CA. 95815

1/28/2021

Re: Opposition to AB 312 – As Introduced

Dear Assemblyman Seyarto;

I am writing today with respect to **AB 312, as Introduced**. On behalf of California's 100,000+ credentialed Substitute Teachers, the **California Association of Substitute Teachers (CAST)** would like to go on record as being **OPPOSED to AB 312**.

REASONS FOR OPPOSITION

That said, **CAST** wants to go on record as appreciating and understanding the growing need for **quality** Substitute Teachers in our schools, but don't believe your measure properly addresses the problem. As such, we are **OPPOSED to AB 312** for the following reasons (not in order of importance):

- 1) **AB 312** will economically harm the current pool of **credentialed** Substitute Teachers, and do so by either limiting our abilities to work, or worse - putting many of us out of work;
- 2) **AB 312** lowers the **quality** of classroom educators;
- 3) **AB 312** will establish a double classification level of those who passed using the 'test' and those who didn't. What's sad is this: the pay for both classifications will be the same, and it shouldn't be – there should be 2 classes of pay, those who do pass the test and those who don't;
- 4) **AB 312**, in the end, will dilute Substitute Teacher pay, as school districts opt to hire those who will accept lower wages. This concept is already in "play" as they say thanks to districts hiring private businesses like Scoot Education, Swing Education, or Teachers on Reserve to run their programs. These businesses promise higher wages, more jobs and faster pay, yet don't deliver on their promises and actually take up to 20% of the Substitute Teacher's salary as a "commission" (Imagine working for \$85 a day, and losing 20% of that – that is not even a living wage);
- 5) **AB 312** will allow school districts to continue to pay Substitute Teachers what can only be considered substandard or below minimum wages, depending on the district you work in;
- 6) **AB 312** provides **zero** subject matter credential enhancement assistance;
- 7) **AB 312** provides **zero** training assistance in subjects like school safety, covid-19 protection, distance learning and classroom management;
- 8) **AB 312** fails to put any new Substitute Teachers in the classroom when they will clearly be needed - during the first half of the 2021-2022 school year (should there even be one);
- 9) **AB 312** does not put more **quality or experienced** educators in any classrooms, rather in many cases, it clearly replaces experienced Substitute Teachers who have classroom management skills, with inexperienced ones who don't – making them simple babysitters;

- 10) **AB 312** does not reimburse Substitute Teachers who paid for their credentials in 2020-2021 and were not allowed to work at their chosen profession during the mentioned school year;
- 11) **AB 312** does nothing to protect, train or educate Substitute Teachers on Germ, First-Aid and Safety techniques that will clearly be needed in the upcoming pandemic year;
- 12) **AB 312** does nothing to reimburse substitutes for equipment and supplies, including paper, pencils and now personal protective devices;
- 13) **AB 312** does not take care of the inequities relative to the definition of ‘employee’ as used by school districts;
- 14) **AB 312** does nothing to rectify the disparity between this concept: On one hand, school districts say that ‘Substitute Teachers are covered by collective bargaining units and thus their salaries and benefits are negotiated for them, while oddly, on the other hand, the majority of Substitute Teachers in California are not allowed to be part of any teacher’s unions or bargaining units, and thus are not part of the collective bargaining process;
- 15) **AB 312** does not addresses this concept: When teachers go on strike, it is Substitute Teachers who are called into action, yet are attacked (Blacklisted) for crossing the picket lines. What makes this intolerable is this: if you are called and don’t work, you get Blacklisted which means that Substitute Teachers lose either way;
- 16) **AB 312** does not protect or enhance the inherent employee rights of Substitute Teachers.

PROBLEM HIGHLIGHT #1: THE MOST BASIC PROBLEM

With those most basic of thoughts in mind, I would like to take a moment to address the number one perceived reason for this measure. Sadly, we believe that members of the California State Legislature have been sold a ‘false bill of goods’ by the Bill’s sponsors. The sponsors claim that there are not enough Substitute Teachers in the ‘system’, yet the real reason there is a shortage is not because the pool is too shallow, but rather its because of how substitutes are treated by the districts, schools and other educational professionals.

In a moment, I am going to list a few of the problems, but want to start with this conundrum: apparently there is a small ‘conflict’ in the state’s numbers system. The state claims that there are approximately 105,000 credentialed Substitute Teachers in California. Yet, many Substitute Teachers are registered to work in multiple districts, and it is not clear if they are counted once because of their credential, or they are counted based on every district they are registered to work in. For example, no one can answer this question: I am a credentialed Substitute Teacher, and have been for many years. I normally work in multiple districts during the course of a year. Currently, I work in 3 districts. Does this mean I am counted once or 3 times?

At this point, again, I want to stress that there is a Substitute Teacher shortage because of the way districts, schools and other educators treat us. Many of Substitute Teachers are forced to leave the profession, especially when in often takes over 60 days to get paid, are abused by students and staff and are deprived of the most basic of employee rights!

REASONS WHY THERE IS A SUBSTITUTE TEACHER SHORTAGE:

For example, did you know the following:

- **POOR EMPLOYEE DEFINITIONS:** Even though California recognizes us as employees, school districts oppose this definition and it reared its ugly head last spring as many of us had to fight for our ability to collect Unemployment Benefits and prove we were employees, even during the pandemic (this is based on the confusing definition of employee that is used);
- **NO UNION REPRESENTATION:** School districts claim that we are ‘represented by unions’ during contract negotiations, yet we are not allowed to join the unions;
- **ZERO TRAINING:** Schools currently put Substitute Teachers in classrooms, often with zero training of any type, and if you ‘make a mistake,’ you – wind up on the Blacklist;

- **LACK OF INFORMATION:** Substitute Teachers are often put into classes where they don't know the students, and are **NEVER** told of things like epilepsy, nut allergies or even medical problems – and this is even more important as more and more of us work with special needs students (we are told we need to help them, but can't be told what their problems are for privacy reasons);
- **BLACKLISTS:** Schools keep Blacklists, and regularly put Substitute Teachers on those list for the simplest of so called 'infractions' – including asking for bathroom breaks, the number of students that are sent to the office for some school infraction in the classroom, asking for help with technical equipment or not understanding poorly written lesson plans that often are found on a sticky notes or are left incomplete for some reason;
- **DENIAL OF DUE PROCESS RIGHTS:** Substitute Teachers are denied their due process rights when they are not told about the above referenced Blacklists and have no way of fighting back once placed on them. In fact, Substitute Teachers are not even told when placed on them and should we find out – there is no system in place for Substitute Teachers to challenge that decision). Instead of being placed on the Blacklist, shouldn't we have the ability to 'learn from our mistakes'?
- **LACK OF BREAKS:** Quite often, 'breaks' (prep periods) are taken away from Substitute Teachers, without any notice or financial remuneration (and if you say anything, you get Blacklisted). Here I would like to note the following: in what can only be considered the 'old days', we were given the option of working during this time or not and if we did, we were paid for the time. This was 'negotiated away' by the unions, at our expense, without our permission;
- **PAY PERIOD DELAYS:** Pay often takes between sixty and ninety days to receive while regular teachers and staff are paid every 30 days (how do you expect a college student, or someone just starting out in the business world to live like that?);
- **MINIMUM EDUCATION DAY VIOLATIONS:** On minimum education days, some schools require Substitute Teachers to "sit in the office" for up to 90 minutes, just waiting for the 3PM bell to ring! Why? If we ask questions, or don't sit in the office like school children, we are placed on the Blacklist, denied the opportunity to work at that site again, and we are not paid for the 'day';
- **DENIAL OF BENEFITS:** Many of California's school districts have not implemented current state law with respect to sick leave and other required benefits – why?;
- **NO LIVING WAGE:** Many Substitute Teachers are denied a living wage – and often, the non-credentialed person at the local fast food restaurant earns more per hour (on average);
- **SALARY DISPARITIES:** Districts compete against each other for salaries. For example, I work in 3 districts, and one pays \$185 and provides minimal sick leave benefits, while another pays \$170 and provides zero benefits. The third pays \$154 and they are proud that they provide zero benefits. If you were a Substitute Teachers, living on a minimal wage, which district would you work for?;
- **APPLYING FOR WORK IN MULTIPLE DISTRICTS INSTEAD OF JUST ONE:** Instead of having to register with the County Board of Education, we are forced to register with each individual district. This costs not just time, but money for fingerprints. It also takes up to one month for your fingerprints to clear and you to be 'officially hired'. If Substitute Teachers were registered with the county, everyone would not only save time and money, but can work in multiple school districts to help fulfill the need anywhere we are needed in the community (why is it that the business services listed above can operate like this, but school districts can't?);
- **JOB BOARD PROBLEMS – JOBS REMOVED AT THE LAST MINUTE:** We are required to 'reserve jobs' from the job board, and these jobs are often cancelled at the last minute – sometimes just as we walk through the office door, and we have no recourse (and lose a day's pay – and if we complain, we are Blacklisted);
- **DISCRIMINATION:** We are often subjected to sexual, religious and political discriminatory actions, yet have no place to complain or appeal;

- **HR DEPARTMENTS ARE ILL EQUIPED:** Since we are not considered ‘employees’, HR departments do not have a basic process for us to follow, let alone legal forms for Substitute Teachers to use when filing a complaint when harassed, thus denying us our rights as employees;
- **NOTICES OF PROSPECTIVE EMPLOYMENT:** Substitute Teachers, because of the conflict with union representation and the definition of employees, are often denied unemployment benefits simply because we ‘receive a Notice of Prospective Employment’;
- **CULLING THE HERD:** School districts, after all the hiring is done in August, often “cull the Substitute Teachers herd”, just before the school year starts. That means they send out the Notice of Prospective Employment in March to simply protect their interests while denying us our rights to unemployment and other benefits. They then ‘fire’ whom they don’t want in August or September based on their need;
- **SICK LEAVE AND COVID-19:** Substitute Teachers get sick like everyone else. Schools are a breeding ground for germs and when Substitute Teachers get sick, there are no benefits to protect us. This problem is amplified with Covid-19. For example, if a Substitute Teacher get ‘sick’ at school and can’t work, what happens? For example, last year I lost over 20 days of work because of the pandemic. Who is going to reimburse me for that lost time?

As you can see, the industry has some very serious problems, and all of these need to be addressed. Here, I want to stress that the problems do not stop there. What makes this horrible is this: it is estimated that on any given day, there are at least 2 Substitute Teachers working in every school in the state. Additionally, to make matters worse, we are often warned by district professionals, that should we ‘complain’ to anyone (like the Labor Commissioner, a lawyer or Legislature), that we will be fired. To go one-step further, I have been told that should I take a position on legislation dealing with Substitute Teachers in the California Legislature, I would not have a job when the school year starts, even though I received a Notice of Prospective Employment (which has been used to deny my ability to collect unemployment).

PROBLEM HIGHLIGHT #2: DENIAL OF UNION REPRESENTATION

At this point, the 2nd largest problem (and misnomer) is one that I have alluded to several times in this document: that Substitute Teachers are part of the bargaining process. I want to make this clear to everyone who reads this – except in a few instances, Substitute Teachers **DO NOT BELONG TO UNIONS** and no one represents us in negotiations, yet districts negotiate our salaries (and benefits) with unions and we have no say! As such, we are often sold out and denied our voice, benefits, rights and the respect we deserve as employees.

PROBLEM HIGHLIGHT #3: WHAT TEACHERS TELL THEIR STUDENTS

Not to beat a dead horse, but to go one step further, not only do teachers tell their students that we are “incompetent and ignorant”, but many tell their students that “if Substitute Teachers were educated then we would not be Substitute Teachers – we would be full time educators!” (For the record, I spent almost 40 years working in the California Legislature, have taught full time and retired to take care of my 90 year old mother. I started Substitute Teaching in 2002 when I entered law school at the age of 45. On that note, I have several degrees, including a law degree. Additionally, if you ask administrators, I am professional, organized and come prepared with my own lesson plans should there be problems with others!). To make matters worse, I have been told by administrators (and educators) that my degrees mean nothing because I am not a full time educator. What’s sad is this: even though they are trained, educators do not know how to properly prepare lesson plans, often leave us with no seating charts, and fail to tell us which students have medical, emotional or educational problems.

PROBLEM HIGHLIGHT #4: LACK OF TOOLS TO DO THE JOB

To make matters worse, it is indescribable that in this day and age, Substitute Teachers are denied access to the internet or computers while on campus, so if we are asked a question, we can't look it up or answer it. And if we do use our phones to answer the questions and get caught, the Blacklist awaits.

Combined, Substitute Teachers often look unprofessional or incompetent because we often walk into a room with hidden, missing or incomplete materials, and when we speak to the office about it, we are told that we are incompetent. What's really sad is this: if this happens, we again find ourselves on the Blacklist.

INTERACTION WITH MS. ROGERS: NEXT STEPS

With that background in mind, I want to do the following. First, I want to state that I promised this letter to Ms. Rogers by a specific date, and wanted to meet that obligation. Second, I am working on suggested amendments and have done two things. First, I have forwarded several bill proposals that can be used to eliminate some of the problems outlined in this document. The proposals do the following:

- A Resolution declaring a week in September as Substitute Teacher Awareness and Education Week;
- Outlines emergency training programs and requirements for all educators, with a focus on Substitute Teachers;
- Helps to establish regional substitute teacher pools;
- Establishes an appeals process for substitute teachers who are placed on the Blacklist;
- Revises pay periods to comply with public practice (bi-weekly payments instead of bi-monthly);
- Address employee related issues;

Secondly, although unwritten as you read this, the amendments that we are developing fall into the following categories:

- Training;
- Establishing a Substitute Teachers Pool Program;
- Blacklists;
- Pay Periods.

So far, we are working on establishing suggestions/language that will remove our opposition. They include, but are not limited to the following concepts:

- 1) Requiring school districts to provide Substitute Teachers with training, both on subject matter and overall operations – especially emergency and first aid. To that note, the attached document offers suggestions on how this can be done;
- 2) Recognizes employee rights;
- 3) Establish equity for Substitute Teachers during the covid-19 pandemic, so they are trained and covered, just like those with union representation are;
- 4) Allows Substitute Teachers to organize so they may be represented by a negotiating team when contracts are discussed;
- 5) Eliminates the unfair Blacklists;
- 6) Requires county boards of education to create a pool of Substitute Teachers, and have them service the county districts that they represent;
- 7) Providing Substitute Teachers with a recognized standard of living, including requiring payment of salaries on a bi-weekly basis;
- 8) Clarifying Substitute Teachers standing as employees, and the rights we receive;
- 9) Requiring school districts to provide uniform income standards throughout the community they operate in.

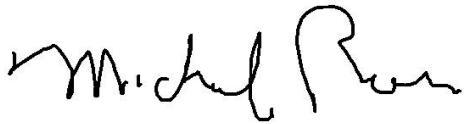
With Amendments in mind, I hope to forward this document to you early in the next week, with the target time and date being Tuesday morning by 10:30.

PROBLEM HIGHLIGHT #5: CREDENTIALS

Finally, I have one other issue I want to address with this letter: Credentials. As I am sure you know, credentials are issued year by year. I understand this, but find it incredibly problematic. Why can't we pay the same 'rate' yet get a license that is good for two years? Second, and even more important – the majority of us didn't work in the 2020-2021 school year, but had to renew our credentials. How are Substitute Teachers going to be reimbursed for this?

In closing, the concepts embodied in this letter are experienced by Substitute Teachers in every corner of the state, and lead directly to the shortage districts face. In our opinion, **AB 312** does nothing to rectify any of those problems and help put quality Substitute or Guest Teachers in the classroom. We look forward to working with you to remove our opposition and create a fair and equitable solution to the problems **AB 312** attempts to address.

Sincerely;

A handwritten signature in black ink that reads "Michael Ross". The signature is written in a cursive style with a large, stylized "R" at the end.

Michael Ross