

2 SUPERIOR COURT OF THE STATE OF CALIFORNIA
3 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

4 CALIFORNIANS FOR JUSTICE EDUCATION
5 FUND,

6 Petitioner,

7 v.

8 CALIFORNIA COMMISSION ON
9 TEACHER CREDENTIALING,

10
11 Respondent.

Case No. CPF-05-5055 17

STIPULATED JUDGMENT GRANTING
MOTION FOR PEREMPTORY WRIT OF
MANDATE

Date: November 2, 2005

Time: 9:30 a.m.

Dept: 301

Judge: The Honorable James L. Warren

12
13
14
15
16 This matter came regularly for hearing on October 5, 2005 at 9:30 a.m., in Department
17 301 of the above-entitled court, The Honorable James L. Warren, Judge, presiding. Petitioner
18 Californians for Justice Education Fund appeared by its attorneys, Michelle N. Rodriguez and
19 John T. Affeldt of Public Advocates, Inc., San Francisco, California. Respondent California
20 Commission on Teacher Credentialing (CTC) appeared by its attorney, Beverley R. Meyers,
21 Deputy Attorney General, San Francisco, California. The Court ordered supplemental briefing
22 and an additional hearing. This matter came for hearing on November 2, 2005 at 9:30 a.m., in
23 Department 301 of the above-entitled court, The Honorable James L. Warren, Judge, presiding.
24 The attorneys appeared for the parties as described above. At the October 5, 2005 hearing, the
25 Court indicated that it would grant petitioner's motion for issuance of a writ of mandate, and
26 required the parties to meet and confer in the effort to agree on language regarding the scope of
27 relief. The Court having considered the papers and oral argument, the parties having met and
28 conferred and stipulated to this order and judgment, and good cause appearing,

1 IT IS HEREBY ORDERED that:

2 1. Petitioner's motion for peremptory writ of mandate be, and the same hereby is,
3 GRANTED and judgment is entered for Petitioner.

4 2. Respondent has a present ministerial duty to comply with the California
5 Administrative Procedure Act (APA) (Cal. Gov't Code §§ 11340, et seq.).

6 3. In March 2003, the CTC announced the availability of the Individual Internship
7 Certificate ("IIC") through coded correspondence as a teaching credential in violation of the
8 *California* Administrative Procedure Act. The announcement establishing the IIC ("the IIC
9 underground regulation") is a "rule...or standard of general application...adopted by [a] state
10 agency to implement, interpret, or make specific the law enforced or administered by it" (Cal.
11 Gov't. Code § 11342.600). The IIC has been issued and utilized by respondent without being
12 adopted as a regulation pursuant to the APA (Cal. Gov't Code § 11340.5(a)) and, accordingly,
13 violates the APA.

14 4. The CTC has implemented, and continues to implement, the IIC underground
15 regulation in various ways warranting a peremptory writ of mandamus, which shall issue from
16 the Court, ordering the following:

- 17 a. The IIC issued by respondent is deemed invalid, and respondent will withdraw
18 its coded correspondence dated March 3, 2003 announcing the availability of
19 the IIC;
- 20 b. Respondent will cease issuing IICs and accepting applications for IICs unless
21 and until a regulation covering the IIC is adopted pursuant to the APA;
- 22 c. Respondent shall inform all interested persons by the usual manner of
23 distribution for coded correspondence, including posting on the CTC's website,
24 that the IIC is void due to non-compliance with the APA, that the March 3,
25 2003 announcement of the IICs availability has been withdrawn, and that
26 respondent has ceased issuing IICs and accepting applications for IICs unless
27 and until a new regulation authorizing IICs has been adopted;
- 28 d. Respondent will comply with the APA in the adoption of any subsequent and

1 all future regulations governing IICs;

2 e. Respondent will inform the employing school districts of IIC holders that the
3 current version of the IIC is void due to non-compliance with the APA, and
4 will request these school districts to so inform affected IIC holders (i.e., those
5 who have not received a preliminary or professional clear teaching credential
6 and whose IIC has not expired);

7 f. Respondent will distribute an errata for its public report, "Teacher Supply in
8 California: A report to the Legislature, Seventh Annual Report 2003-04," to the
9 Legislature, to be circulated in the same manner that the Report is circulated
10 and, additionally to the State Board of Education (SBE). Respondent will
11 correct in the errata the number of interns reported by removing any references
12 to IIC holders as interns and as "highly qualified" teachers under the federal
13 No Child Left Behind Act (NCLB). Respondent will request the SBE to
14 correct any reports or public communications it has provided pertaining to
15 interns and numbers of "highly qualified" teachers in California to be
16 consistent with the errata; and,

17 g. The CTC shall adopt an emergency regulation pursuant to California
18 Government Code section 11346.1 by December 12, 2005 establishing a
19 Special Temporary Certificate (STC) solely for purposes of a stipulated
20 judgment.

21 h. Upon adoption of the emergency regulation in paragraph (g) provided above,
22 respondent shall replace each current IIC with an STC issued pursuant to
23 respondent's authority set forth in California Education Code section 44225,
24 subdivision (g).¹ The parties stipulate that, upon the adoption of the emergency
25 regulation, each current IIC shall be deemed to be an STC. Respondent shall
26 replace each current IIC by deeming the IIC to now constitute an STC and by

27
28 ¹ This provision is agreed upon without prejudice as to whether section 44225 (g) properly
authorizes any future regulation regarding interns in California.

1 replacing all references to IICs in its official records with references to STCs.
2 As a condition of receiving the STC replacement authorization for its IIC
3 holders, districts must similarly replace references in their official records to
4 individuals who formerly held IICs as now holding STCs. As a further
5 condition of receiving the STC replacement authorization, districts must notify
6 the current affected IIC holders (as defined by paragraph 4(e) above) of their
7 new STC authorization. The STC will authorize all current holders of an IIC to
8 continue service under contract with the school district that requested the IIC.
9 Holders of the STC shall not be considered to be in an approved intern program
10 as set forth in Title 5, California Code of Regulations, sections 6101 and 6110
11 nor shall they be counted as "highly qualified" teachers in reports made to the
12 state or federal government pursuant to NCLB.² Holders of the STC, school
13 districts, and institutions of higher education shall be subject to the same
14 requirements as the former IIC. In order to minimize disruptions in classrooms,
15 to districts and to individual IIC holders, the STC will replace the IIC, and it is
16 the intent of the parties and the Court that the STC shall entitle the holder to the
17 same employment classification, pay, and benefits that were previously
18 available to her or him while respondent attempts to promulgate regulations
19 regarding interns. The STC shall be a one-time, non-renewable certificate that
20 will be available only to current IIC holders and shall expire upon the issuance
21 to the individual of another valid teaching document from the CTC or on the
22 date of expiration for the original IIC document, whichever occurs first.

23 5. Respondent will prepare the communications relative to matters set forth in paragraph
24 4 (c), (e), and (f) and provide it to petitioner's counsel within twenty days (20) of the effective
25 date of this judgment. Petitioner's counsel may comment on the proposed notice with one week
26 of receipt, and respondent will consider these comments prior to finalizing the notice. At the

27 ² This determination is issued without prejudice to whether any future regulations regarding
28 interns in California comply with NCLB requirements.

1 time respondent disseminates the notice, respondent shall provide a copy of the notice to
2 petitioner's counsel.

3 6. Respondent shall make and file a return to the writ to this Court demonstrating that it
4 has satisfied the directives set forth in paragraph 4 no later than forty-five days (45) from the
5 date of entry of the writ.

6
7 Dated: _____, 2005.

8
9
10 _____
11 THE HONORABLE JAMES L. WARREN
12 Judge of the Superior Court
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

So stipulated and agreed:

FOR THE PETITIONER:

JOHN T. AFFELDT (SBN 154430)
MICHELLE NATIVIDAD RODRIGUEZ (SBN 226683)
PUBLIC ADVOCATES, INC.
131 Steuart Street, Suite 300
San Francisco, California 94105
Tel. (415) 431-7430
Fax (415) 431-1048
Attorneys for PETITIONER, Californians for Justice Education Fund

10 Dated: October —, 2005

By: _____

11 JOHN T. AFFELDT

12 Dated: October —, 2005

By: _____

MICHELLE N. RODRIGUEZ

15 FOR THE RESPONDENT:

16

17 BEVERLEY R. MEYERS (SBN 109624)

18 Deputy Attorney General
19 455 Golden Gate Avenue, Suite 11000
20 San Francisco, CA 94102-7004
21 Tel. (415) 703-5545

22 Fax (415) 7035480

23 Attorney for RESPONDENT, California Commission on Teacher Credentialing

24

25

26 Dated: October, 2005

By: _____

27

BEVERLEY R. MEYERS

28