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JOHN F. MIZNER, ESQ.
MURRAY UFBERG, ESQ.
KIM KAUFMAN, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL



PHONE: (717) 783-5417
FAX: (717) 783-2664
irrc@irrc.state.pa.us
www.irrc.state.pa.us

INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

December 28, 2005

James Buckheit, Executive Director
State Board of Education
333 Market Street, 1st Floor
Harrisburg, PA 17126

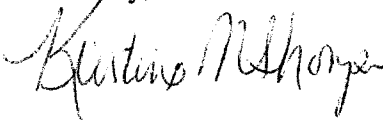
Re: Regulation #6-293 (IRRC #2502)
State Board of Education
Certification of Professional Personnel

Dear Mr. Buckheit:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,


for Kim Kaufman
Executive Director

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Enclosure

cc: Honorable James J. Rhoades, Chairman, Senate Education Committee
Honorable Raphael J. Musto, Minority Chairman, Senate Education Committee
Honorable Jess M. Stairs, Majority Chairman, House Education Committee
Honorable James R. Roebuck, Jr., Democratic Chairman, House Education Committee
Honorable Gerald L. Zahorchak, Acting Secretary, Department of Education

Comments of the Independent Regulatory Review Commission

on

State Board of Education Regulation #6-293 (IRRC #2502)

Certification of Professional Personnel

December 28, 2005

We submit for your consideration the following comments on the proposed rulemaking published in the October 29, 2005 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Education (Board) to respond to all comments received from us or any other source.

1. Section 49.1. Definitions. – Consistency with statute; Reasonableness; Clarity.

Substantive provisions in definitions

Substantive provisions in a definition cannot be enforced. The following definitions contain substantive provisions: “Continuing professional education,” “Intern certificate,” and “Prekindergarten.” The substantive provisions in these definitions should be deleted and addressed in the appropriate section of the regulation.

Continuing professional education

In addition to the concern with substantive provisions in this definition, there is another concern. The statute specifies in 24 P.S. § 12-1205.2(b) that “one (1) credit of college studies or continuing professional education courses shall be equivalent to thirty (30) hours of continuing education programs, activities or learning experiences.” However, this is not included in the regulation. Since this is a requirement to maintain a certificate in active status, the acceptable combination of credits should be made clear in Section 49.17, along with the number of hours required.

Unclear definitions

The definitions of “Day-to-day substitute permit,” “Emergency permit,” and “Long-term substitute permit” are not clearly written. These definitions use the term being defined, include what appears to be extraneous information and use conditional phrases such as “may be issued.” They should be rewritten.

As an illustrative example, the Board should consider whether the following language would be sufficient:

Day-to-day substitute permit – A permit issued for no longer than 20 consecutive days to fill the absence of professional certified personnel.

Emergency permit – A permit issued to fill a vacancy resulting from resignation, termination, retirement, death or the creation of a new position.

Long-term substitute permit – A permit issued for an indeterminate period to fill the absence of professional certified personnel.

Diverse learners

The term “diverse learners” in Sections 49.13(a), 49.16(d) and 49.17(a)(6) should be defined.

In addition, the Board should consider the suggestion of the Education Law Center (ELC) that language be added to several sections of the regulation for diverse learners. The Board should also explain how the regulation sufficiently accommodates diverse learners.

2. Section 49.11. General. – Reasonableness.

The Board is deleting the language in Subsection (a) that states, “Certificates and letters of eligibility in force in this Commonwealth on September 25, 1999, shall continue in force...until they expire by virtue of their own limitations.” Have all of these certificates or letters of eligibility expired? If not, this language should be retained.

3. Section 49.14. Approval of institutions. – Clarity.

Subsection (x)(5) contains the phrase “articulation agreement.” To clarify this term, the Board should add a definition to this section.

4. Section 49.17. Continuing professional education. – Consistency with statute.

In Subsection (a)(3), the list of persons who develop the plan is not consistent with the statute (24 P.S. §12-1205.1(b)). For example, the statute requires “The committee shall include parents of children attending a school in the district.” This does not appear in the regulation. The list in the regulation should either be made consistent with the statute or the regulation should just cross reference the statute.

5. Section 49.32. Exceptional case permit. – Clarity.

For clarity, the term “exceptional case permit” should be defined in Section 49.1 (relating to Definitions).

6. Section 49.53. Elimination or change of types/categories of certificates. – Clarity.

We have two concerns with this section.

First, in Subsection (b), what constitutes a “cogent request” is not clear.

Second, it is not clear what triggers the start of the 150-day time period in Subsection (d). What submission will start this clock?

7. Section 49.84. Collegiate credit acceptable for renewal or conversation of the Instructional I Certificate. – Clarity.

The Board has indicated that Instructional I Certificates are not renewable. However, Subsection (a) in the Board’s existing regulations states, “College credits acceptable for renewal of the Instructional I Certificate....” This subsection should be amended, in the final-form regulation, to accurately reflect the Board’s position that Instructional I Certificates are not renewable.

8. Section 49.91. Criteria for eligibility. – Clarity.

It is unclear what the term “intensive supervision” in Subsection (c) requires. The Board should define this term to specify how much supervision is required.

IRRC #2502 #6-293
State Board of Education
Certification of Professional Personnel

James Buckheit, Executive Director

Jackie Arkey for J. Buckheit
Date: 12/28/05