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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
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Dr. James Gallagher, Chairman
State Board of Education
First Floor, 333 Market Street
Harrisburg, PA 17126

Dear Dr. Gallagher:

The House Education Committee has received proposed rulemaking #6-258 (proposed regulations to Title 22, Pa Code of Regulations, Chapter 49) on certification of professional personnel, submitted by the State Board of Education. Pursuant to Section 5(B.2) of the Act of 1982 (PL 633, No. 181), as amended, known as the Regulatory Review Act, the Committee reviewed said proposed rulemaking on Wednesday, May 14, 1997, and offers the following comments:

§49.1. (Definitions). The Committee suggests that the term "commission" be included among the definitions. It is a confusing term, as it applies to the contractual status of the chief school administrator as well as the possible reference to the Professional Standards and Practices Commission (PSPC).

It is the Committee's suggestion that the definition of "commissioned officer" include executive directors and assistant executive directors of intermediate units, as that term is referenced in §49.182(c), as well as in the title of Subchapter E.

The Committee further suggests that §49.1 contain the following definitions: "maintaining active certification" (as it relates to acquiring continuing professional development credits); and "areas of assignment and certification".

§49.13(b)(12). "Equivalencies". The Committee strongly objects to the language of this subsection which, it believes, runs counter to the legislative intent of granting authority to the State Board for the standards of certification. While the Secretary, in Section 1204 of the Act, may grant certification to an applicant whose equivalent background and experience meets the standards established by the State Board of Education, it was never the intent of the Legislature to permit the Board to transfer to the Secretary of Education the authority to set the standards for equivalent background.

The Committee also suggests that the Board provide language to permit the Commonwealth's teacher preparation institutions to determine equivalent experiences, just as they currently evaluate teacher candidates for fitness and qualifications for the profession. In any case it is the Board which must develop the specific standards by which equivalency is determined and then identify who will make the determination. The Committee further suggests that standards for certification and equivalent background be promulgated as a separate chapter of State Board regulations.

§49.11 - General. The Committee suggests that language be inserted into this section or another appropriate section to require the Board and the Department to perform a comprehensive review, on a five-year basis, of all existing areas of certification, as well as new areas of certification.

§49.13(b)(13). Temporary waiver language. This particular subsection is unclear as to whether a temporary waiver is the same as a temporary permit. That is crucial in determining whether this language pertains to waiving certification for potential employees or continuing a policy for current employees. The Committee suggests that the Board clarify this language to identify the class of employee involved and further suggests that the Board provide, within the text of the regulations, the specific criteria which trigger such a waiver. The Committee further suggests that the criteria or standards for granting a temporary waiver of certification be included in the separate chapter for standards.

§49.15. Elimination of the section on approval of experimental programs. The House Education Committee suggests that the Board reinstate this section. As the Commonwealth proposes education reform, experimental programs at colleges and universities may provide both an alternative entry into the profession while providing evidence of the validity of various education reforms, such as college-based charter schools.

§49.17(c)(1)(2). Continuing professional development. The Committee urges the Board to consider amending the language in this subsection to replace the word "in" with the phrase "related to" before the phrase "the areas of assignment and certification". If not defined in §49.1 (Definitions), the use of the phrase "the areas of assignment and certification" should be clarified by specific examples, such as courses or activities in methodology, teaching technology, current educational trends, pedagogy, educational psychology, or courses or activities within the subject areas or in the practice of teaching.

Language needs to be added to identify the chief school administrator of the school entity as the final authority in determining valid studies or courses in one's areas of assignment and certification. This would appear to conform with the intent of §1205.1(d) of the School Code.

The Committee further recommends that the breadth of possible continuing professional development activities include those listed in Section 1205.1(c) of the Act.

§49.65. Out-of-state and Nationally-certified applicants. The Committee suggests that the Board designate a separate section for nationally-certified applicants as a way of emphasizing the importance of this class of certificate holders.

§49.111(a)(2). Supervisory Certifications. The Committee recommends that the Board reinstate the word "specified" before "program area". We believe that a supervisory certification may be helpful to cover more than one program area for staffing purposes; however, the Committee questions whether a supervisor should be permitted to supervise in an area for which he/she has no known preparation.

§49.83. Instructional II and §49.103 - Educational Specialist II. Language contained in these sections refers to the certificates as "renewable", and eliminates the term "permanent". Sections 1201 and 1203 of the School Code specifically list several certifications as "permanent". If it is the Board's intent to replace permanent certificates with renewable certificates in the literal sense, then this Committee opposes that change as contrary to the intent and content of the Act. If it is the Board's intent to require professional development as a means of maintaining an active certificate, then the Committee suggests that the Board use language to that effect throughout the proposal and delete references to "renewable" and "renewability". (A phrase has been suggested for definition in §49.1.)

§49.161. Supervisor of Vocational Education. The Committee believes, for reasons already stated, that supervisory certificates should be held by people with preparation in subject areas to be supervised. This is extremely important for supervision in vocational education. Therefore, the Committee recommends that the Board reinstate this section under a single consolidated certification, as with other supervisory certification. (49.111)

Several additional changes affect multiple sections of the proposal as they relate to educational specialists. The Committee suggests that the word "service" replace "teaching" in §49.103(2); language should be inserted into §49.18(a)(iii) to permit educational specialists to act as consultants in the assessment process, where assessments deal with the services offered by educational specialists and whenever educational specialists are properly certified; and the induction procedure and the use of the term "induction" should be modified as it relates to educational specialists. These suggestions are offered to help define the discrete role of educational specialist certification.

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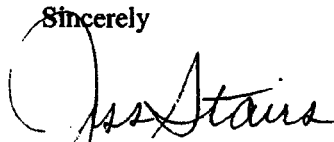
The Committee expresses some concern with a tendency by state educational agencies to anticipate legislative intent prior to the passage of legislation. Within the regulatory process, the language of existing statute must be the standard by which the content of proposed regulations must be measured, regardless of pending legislation. Changes outlined within this letter include some of those concerns.

To this end, the Committee Chairmen extend an offer to meet with the State Board and its staff, the Senate Education Committee Chairmen and their staff, the Governor's Office and Secretary of Education at a mutually convenient time, in order to discuss the statutory changes needed to move the Commonwealth toward a more accountable certification process. Your consideration of this offer is appreciated and we await your response.

Our thanks to the State Board especially Karl Gorton, Member, and Dr. Peter Garland, Executive Director, for their assistance to the Committee and its staff in the review of these regulations.

If you have questions regarding these comments, please contact us.

Sincerely



Representative Jess M. Stairs
Chairman, House Education Committee



Representative Ronald Cowell
Minority Chairman, House Education Committee

JMS/er

cc: John R. McGinley, Jr., Chairman, Independent Regulatory Review Commission ✓
Members, House Education Committee