

Regulatory Analysis Form

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REGULATORY
RENEWAL COMMISSION

(1) Agency

Professional Standards and Practices Commission

(2) I.D. Number (Governor's Office Use)

006-274

IRRC Number:2277

(3) Short Title

Definitions of Statutory Terms

(4) PA Code Cite

22 PA. Code Chapter 237

(5) Agency Contacts & Telephone Numbers

Primary Contact:

Carolyn Angelo (717) 787-6576

Secondary Contact:

Richard Hupper (717) 741-0223

(6) Type of Rulemaking (check one)

Proposed Rulemaking

Final Order Adopting Regulation X

Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

No X

Yes: By the Attorney General

Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

These amendments are to Title 22, Chapter 237, which establish definitions pursuant to section 5(a)(11) of the Professional Educator Discipline Act, 24 P.S. §2070.1 *et seq.* .

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Professional Educator Discipline Act, 24 P.S. § 2070.5(a)(11).

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Yes. The General Assembly specifically directed the Professional Standards and Practices Commission to promulgate definitions under section 5(a)(11) of the Professional Educator Discipline Act, 24 P.S. §2070.5(a)(11).

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The public has a compelling interest in a fair and efficient disciplinary system for professional educators and charter school staff members. These regulations provide definitions of statutory terms that allows for all affected parties to understand the meaning of the statutory terms, which often guide the Commission as the adjudicatory body for educator discipline.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Not applicable.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The community most affected by the Definitions is that of the professional educator. To a lesser degree, the Department of Education is affected. To the extent that the amendments clarify the statutory terms, the affected communities are enhanced.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No one will be adversely affected by the Definitions.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The Definitions apply to all educators who may come before the Commission in its official adjudicatory capacity. In addition, the Department of Education, in its prosecutorial role, must operate in compliance with the Definitions set forth in this Chapter.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The amendments to the Professional Educator Discipline Act (24 P.S. §2070.1 *et seq*) and the amendments to the Definitions were developed after considerable input from affected parties, including the Department of Education, the Pennsylvania State Education Association, Pennsylvania School Boards Association, Pennsylvania Federation of Teachers, Pennsylvania Association of Elementary and Secondary School Principals, and the Pennsylvania Association of School Administrators. In addition, the comments of the Independent Regulatory Review Commission were considered.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Not applicable to amendment of the Definitions.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Not applicable to amendment of the Definitions.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

Not applicable to amendment of the Definitions.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

Amendment of the Definitions will not engender any additional costs or savings.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Not applicable				

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The benefits of the amendments cannot be measured in dollar and cents and are tangible only to the extent that they maximize the efficiency and fairness of the disciplinary system. There are no costs associated with the amendments and, thus, the benefits far outweigh the costs.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Not applicable.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The Definitions are specifically tailored to Pennsylvania's Professional Educator Discipline Act. Any comparison with the discipline system in other states would be meaningless.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Commission conducted a public comment period commencing with the publication of the proposed amendments to the regulations in the Pennsylvania Bulletin (32 Pa.B. 2994) on June 22, 2002, and concluding 30 days thereafter. In addition, considerable public input was solicited throughout the Commission's consideration of the amendments.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The Definitions are designed to meet the needs of all affected persons.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The Definitions will become effective upon final publication in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

The Professional Standards and Practices Commission will review the Definitions on an ongoing basis and similarly will solicit comments from the affected parties on an ongoing basis.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE REFERENCE BUREAU
PROFESSIONAL STANDARDS AND PRACTICES COMMISSION

2277

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

BY: _____
(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Professional Standards and Practices Commission

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 006-274

DATE OF ADOPTION: September 9, 2002

BY: _____
[Signature]

TITLE: Executive Director

(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

BY: _____
[Signature]

10/7/02

DATE OF APPROVAL

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

Final-Form
Professional Standards and Practices Commission
Title 22 - Education
Chapter 237 Definitions of Statutory Terms
(relating to definitions)

PREAMBLE

**DEPARTMENT OF EDUCATION
22 PA. CODE – EDUCATION
Chapter 237, Title 22**

The Professional Standards and Practices Commission (Commission) adopts amendments to Chapter 237 (relating to definitions of statutory terms) to read as set forth in Annex A. The amendments are made under the authority of sections 5(a)(11) and 9.2 of the Professional Educator Discipline Act (act) (24 P.S. §§2070.5(a)(11) and 2070.9.2).

The Commission was created by the act of December 12, 1973 (P.L. 397, No. 141) as amended by the act of November 21, 2000 (P.L. 918, No. 123)(Act 123). By virtue of the act, the General Assembly has empowered the Commission to discipline professional educators and charter school staff members. In addition, the General Assembly directed the Commission to establish definitions consistent with its authority to discipline under sections 5(a)(11) and 9.2 of the act. Accordingly, the Commission promulgated definitions found at Title 22 of the Pennsylvania Code, Chapter 237 in May of 1994. The Commission now adopts amendments to the definitions found in Chapter 237.

Notice of proposed rulemaking was published at 32 Pa.B. 2994 (June 22, 2002) with an invitation to submit written comments within 30 days. The Commission on September 9, 2002, voted to adopt the regulations as proposed.

Purpose

This chapter establishes definitions under sections 5(a) (11) and 9.2 of the act. The act recently was amended by Act 123 and this rulemaking reflects the amendments to the act.

Summary of Regulations

The most significant new requirements under the amendments to this chapter are:

1. The recognition of the extended jurisdiction of the Commission to discipline charter school staff members, as well as professional educators, as contemplated by the recent amendments to the act.
2. The standard for "morals of a community" within the definition of immorality has been changed from a local standard to a statewide standard to comport with the overall mission of the Commission.
3. A definition for the term "surrender in lieu of discipline" has been added to this chapter to reflect the recent amendments to the act, which designated a surrender in lieu of discipline as a specific type of discipline. The most significant impact of this designation is that surrenders in lieu of discipline are now considered public under the act.

Public Comments

The Commission received no public comments during the official public comment period. In addition, neither the House Education Committee nor the Senate Education Committee submitted comments. The Commission did consider the comments submitted by the Independent Regulatory Review Commission (IRRC) on August 22, 2002.

In its comments, the IRRC objected to the phrase "morals of the Commonwealth" within the definition of immorality in section 237.3 as vague and undefined. The Commission is entrusted with the responsibility of determining the present, continuing and future fitness and ability of a person to serve as a professional educator in this Commonwealth. In exercising its responsibilities, the Commission must consider the statewide impact and effect of its decisions, as distinguished from individual employment or contractual discipline imposed by a local school entity. The vagaries of any one community's standards within the Commonwealth cannot be allowed to determine the level and extent of discipline against Commonwealth issued certification. Accordingly, the Commission decided that the appropriate moral standard should emanate from the Commonwealth community at large and not the community attendant to the educator's place of employment.

While the concept of the "morals of the Commonwealth", as well as the "morals of the community", is not defined specifically, the concepts have acquired a well-established construction through judicial and Commission decisions. The construction of the concept, as applied by the courts and the Commission, does not lend itself to definitive explication.

As is true with any adjudicatory matter, professional discipline should be decided on a case-by-case basis, after consideration of all relevant facts and circumstances as presented in a due process hearing. The nature of the conduct within any particular context is critical to the Commission's determination in each case. In the judgment of the Commission, it would be inappropriate and imprudent, not to mention nearly impossible, to condense the breadth of the concept into any single comprehensive statement. The Commission thus respectfully disagrees with the IRRC that the phrase "morals of the Commonwealth" needs further clarification.

With respect to section 237.9, dealing with crimes involving moral turpitude, the IRRC had two comments. First, the IRRC suggested that the Commission include specific examples or descriptions of actions that constitute "moral turpitude" within the definition. As with the concept of "morals of the Commonwealth", the Commission does not believe that the inclusion of specific examples within the definition is warranted. To the contrary, the Commission believes that the inclusion of examples might actually prove misleading and may lead to unintended limitations of the Commission's adjudicatory discretion.

In addition, specific applications of the definition of moral turpitude can be found in countless judicial decisions in Pennsylvania as well as in the adjudications of the Commission. The Commission does not wish to replace well-established judicially crafted definitions with specific examples.

Finally, the IRRC commented on subsection (c) of section 237.9, which sets forth the mechanism for the Commission to consider crimes added or deleted from Section

111(e) of the Public School Code of 1949 to determine if the such crimes involve moral turpitude *per se*. IRRC advises the Commission to include the criteria for determining whether a crime involves moral turpitude within the definition.

The Commission believes that Chapter 237 already establishes the criteria for the moral turpitude determination. Section 237.9 specifically mandates that the Commission, in determining whether a specific crime involves moral turpitude, limit its consideration to the elements of the crime as juxtaposed against the stated definition of moral turpitude. The underlying facts of each case are not relevant. Under section 237.1, the Commission may look to judicial interpretations and decisions of the Secretary of Education for guidance in the prescribed analysis. It is the opinion of the Commission that the moral turpitude determination does not need further elaboration.

The IRRC also queries how the Commission will notify the public of its decisions relating to crimes that are added to or deleted from section 111(e). All of the Commission's decisions are made in public at its regularly scheduled and advertised meetings. In addition, all of its written decisions are available to the public with the exception of those decisions that remain confidential under the act. The Commission agrees that its decisions, in this area as well as in others, should be more readily accessible to the public. To that end, the Commission will publish in its Annual Report a more comprehensive summary of its decisions, including the grounds for discipline, the level of discipline imposed, and the crimes that have been determined to involve moral turpitude. The Commission does not

believe, however, that the regulations need to specify the particular means of communicating its decisions to the public.

Affected Parties

This chapter primarily affects all professional educators who have been certified by the Department of Education (Department) as well as charter school staff members, who are employed by a charter school in a position for which Pennsylvania certification would be required in a public school other than a charter school, but who are not required to hold state certification under section 1724-A of the Public School Code of 1949 (24 P.S. §1724-A).

Cost and Paperwork Estimates

The amendments to this chapter will not engender any additional costs or paperwork for affected parties, which include professional educators, charter school staff members, local school districts and the Department.

Effective Date

This final rulemaking will become effective upon final form publication in the *Pennsylvania Bulletin*.

Sunset Date

The Professional Standards and Practices Commission will review the effectiveness of Chapter 237 on an ongoing basis. Thus, no sunset date is necessary.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act, (71 P.S. § 745.5(a)), the Commission submitted a copy of the Notice of Proposed Rulemaking, published at 32 Pa.B. 2994 (June 22, 2002), to the IRRC and to the Chairpersons of the House and Senate Committees on Education. In addition to submitting the regulations, the Commission has provided the IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission in compliance with Executive Order 1982-2, "Improving Government Regulations."

In preparing these final form regulations, the Commission has considered all comments received from the IRRC, the Committees and the public.

These final form regulations were (deemed) approved by the House Education Committee on _____, and were (deemed) approved by the Senate Education Committee on _____. The IRRC met on _____, and approved the regulations in accordance with section 5(c) of the Regulatory Review Act (71 P.S. §745.5(c)).

Contact Person

All questions or comments should be directed to Carolyn Angelo, Executive Director of the Professional Standards and Practices Commission, 333 Market Street, Harrisburg, PA 17126-0333 717) 787-6576.

Alternative formats of these final form regulations (e.g. Braille, large print, cassette tape) can be made available to members of the public upon request to Ms. Angelo at the telephone number listed above.

Findings

The Professional Standards and Practices Commission finds that:

(1) Public notice of the intention to adopt these regulations was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240)(45 P.S. §§1201 and 1202) and the regulations promulgated there under at 1 Pa. Code §§7.1 and 7.2.

(2) The regulations are necessary and appropriate for the administration of the Professional Educator Discipline Act (24 P.S. §§2070.1 – 2070.18.1.

Order

The Professional Standards and Practices Commission, acting under authorizing statute, orders that:

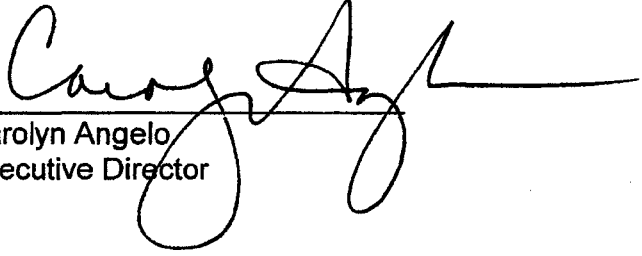
(a) The regulations of the Professional Standards and Practices Commission, 22 Pa. Code Chapter 237, are amended to read

as set forth in Annex A.

(b) The Executive Director of the Professional Standards and Practices Commission will submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Executive Director of the Commission will certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(d) This order will take effect upon publication in the *Pennsylvania Bulletin*.



Carolyn Angelo
Executive Director

ANNEX A

TITLE 22. EDUCATION
PART XIV. PROFESSIONAL STANDARDS AND PRACTICES COMMISSION
CHAPTER 237. DEFINITIONS
OF STATUTORY TERMS

237.1	Purpose.
237.2	Scope and effect.
237.3	Immorality.
237.4	Incompetency.
237.5	Intemperance.
237.6	<u>Reserved</u> [Habitual use of drugs or narcotics].
237.7	Cruelty.
237.8	Negligence.
237.9	Crimes [and misdemeanors] involving moral turpitude.
<u>237.10</u>	<u>Surrender in lieu of discipline.</u>

§ 237.1. Purpose

(a) Under [section] sections 5(a)(11) and 9.2 of the [act of December 12, 1973 (P.L. 397, No. 141)(act) (24 P.S. § 12-1255(a)(11)), known as the Teacher Certification Law] Professional Educator Discipline Act (act) (24 P.S. §§2070.5(a)(11) and 2070.9b), the Professional Standards and Practices Commission (Commission) is vested with the duty and granted the power to discipline professional educators [charged with or convicted of certain criminal offenses or found guilty by the Commission, after hearing, of certain statutory offenses] and charter school staff members and to consider the reinstatement applications of professional educators and charter school staff members who seek to have previously revoked or suspended certificates or eligibility reinstated.

(b) Under section 5(a)(11) of the act, the Commission has adopted this subchapter to define terms in [section 5(a)(11) of] the act which describe the

conduct for which discipline of a professional educator or charter school staff member might be imposed by the Commission.

(c) This subchapter is not the sole authority for defining terms under [section] sections 5(a)(11) and 9.2 of the act. Judicial interpretations and adjudications of the Commission will authoritatively define the statutory terms. Judicial decisions and decisions of the Secretary under Article XI, Part C of the Public School Code of 1949 (24 P. S. § § 11-1121—11-1133)[—], known as the Teachers' Tenure Act [—], and decisions of the Secretary under the Teachers' Tenure Act are not binding upon the Commission but [will] may be regarded as persuasive authority.

(d) The standards and conduct expected of a professional educator or charter school staff member are also prescribed by Chapter 235 (relating to Code of Professional Practice and Conduct for Educators), the violation of which may be grounds for discipline.

(e) The definitions found in section 1.2 of the act (24 P.S. §2070.1b) are incorporated herein by reference.

§ 237.2. Scope and effect.

(a) *Applicability.* This subchapter applies to the terms in [section] sections 5(a)(11) and 9.2 of the [act of December 12, 1973 (P. L. 397, No. 141) act, known as the Teacher Certification Law] Professional Educator Discipline Act (24 P.S. §§2070.5(a)(11) and 2070.9b), and proceedings before the Commission.

This subchapter does not apply to similar or identical terms used in other regulations or statutes, including section 1122 of the Public School Code of 1949

(24 P. S. § 11-1122), or to proceedings before a board of school directors or the Secretary under Article XI of the Public School Code of 1949 (24 P. S. § § 11-1121—11-1133), known as Teachers Tenure Act, or to proceedings before the Secretary under [sections] section 2(i) and (j) of the act of May 29, 1931 (P. L. 210, No. 126), and section 1211 of the Public School Code of 1949, which were partially preserved from repeal by section 2 of the act of April 26, 1990 (P.L. 122, No. 33).

(b) *Statewide effect.* The act and this subchapter will be construed and applied by the Commission in the context of the Commission's power and duty to determine the present, continuing and future fitness and ability of a person to properly perform in this Commonwealth the duties and responsibilities of a professional educator [in the area of the person's certification] or charter school staff member.

§ 237.3. Immorality.

[(a) *Definition.*] Immorality is conduct which offends the morals of [a community] the Commonwealth and is a bad example to the youth whose ideals a professional educator or a charter school staff member has a duty to foster and elevate.

[(b) *Morals of a community.* For purposes of the definition of the term "immorality" set forth in subsection (a), the "morals of a community" means the morals of the community in which the professional educator is employed.]

§ 237.4. Incompetency.

Incompetency is a continuing or persistent mental or intellectual inability or incapacity to perform the services expected of a professional educator or a charter school staff member.

§ 237.5. Intemperance.

Intemperance is a loss of self-control or self-restraint, which may result from excessive conduct.

§ 237.6. Reserved [Habitual use of drugs or narcotics].

[(a) *Definition.* Habitual use of drugs or narcotics is the illegal or improper use of drugs or narcotics on a frequent or regular basis.

(b) *Drugs and narcotics.* The terms “drug or narcotics” as used in section 5(a)(11) of the act of December 12, 1973 (P. L. 397, No. 141), known as the Teacher Certification Law (24 P. S. § 12-1225(a)(11)) are defined as the terms “drug” and “narcotic” are defined in section 2 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-102), and as the term “drug” is defined by section 2 of the Pennsylvania Drug and Alcohol Abuse Control Act (71 P. S. § 1690.102).]

§ 237.7. Cruelty.

Cruelty is the intentional, malicious and unnecessary infliction of physical or psychological pain upon living creatures, particularly human beings.

§ 237.8. Negligence.

(a) *Definition.* Negligence is a continuing or persistent [actions] action or [omissions] omission in violation of a duty.

(b) *Duty.* A duty may be established by law, by [duly] promulgated school rules, policies or procedures, by express direction from superiors or by duties of professional responsibility, including duties prescribed by Chapter 235 (relating to Code of Professional Practice and Conduct for Educators).

§ 237.9. Crimes [and misdemeanors] involving moral turpitude.

(a) *Definition.* Moral turpitude includes the following:

(1) That element [and] of personal misconduct in the private and social duties which a person owes to his fellow human beings or to society in general, which characterizes the act done as an act of baseness, vileness or depravity, and contrary to the accepted and customary rule of right and duty between two human beings.

(2) Conduct done knowingly contrary to justice, honesty or good morals.

(3) Intentional, knowing or reckless conduct causing bodily injury to another or intentional, knowing or reckless conduct which, by physical menace, puts another in fear of imminent serious bodily injury.

(b) *Elements of the crime [or misdemeanor].* A determination of whether a crime [or misdemeanor] involves moral turpitude will be determined based solely upon the elements of the crime [or misdemeanor]. The underlying facts or details of an individual criminal charge, indictment or conviction [is] are not relevant to

the issue of moral turpitude. [The actual guilt or professed innocence of the charged, indicted or convicted professional educator is not relevant.]

(c) *Specific crimes [or misdemeanor]*. Crimes [or misdemeanors] involving moral turpitude *per se* include the following:

(1) An offense under 18 Pa.C.S. (relating to crimes and offenses) listed in section 111(e)(1) of the Public School Code of 1949 (24 P.S. § 1-111(e)(1)). At any time subsequent to the adoption of this chapter if section 111(e)(1) be amended to add or delete crimes, the Commission will consider each additional or deleted crime to determine if the crime involves moral turpitude *per se* and will vote at a public meeting whether the crime will be designated as involving moral turpitude *per se* for purposes of cases coming before the Commission under section 9.2 of the Professional Educator Discipline Act (24 P.S. §2070.9b)(act).

(2) An offense designated as a felony under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § § 780-101—780-144).

(3) An offense of a criminal law of the Commonwealth, the Federal government or another state or territory of the United States or another nation, an element of which offense is delivery of a controlled substance or possession of a controlled substance with intent to deliver.

(4) A State offense, out-of-State offense or Federal offense or an offense of another nation similar in nature to crimes [listed] in paragraphs (1)—(3).

(d) *Certified copy*. For purposes of section [5(a)(11)] 9.2 of the [act of December 12, 1973 (P. L. 397, No. 141), known as the Teacher Certification Law] act (24 P. S. § [12-1225(a)(11) (act)] 2070.9b (and this section, a

document certified by the clerk of court or other judicial officer designated by law as the official custodian of criminal court records or certified by the official custodian of the appropriate licensing authority in another state, territory or nation will be treated by the Commission as a certified copy of the document.

(e) *Indictment.* Indictment under section [5(a)(11)] 9.2 of the act includes a criminal complaint, criminal information or other similar document filed in a court of competent jurisdiction.

(f) *Conviction.* The term conviction under section [5(a)(11)] 9.2 of the act is defined to mean the [entry of a judgment of sentence] verdict, judgment or sentence or the entry of an order which constitutes a final order by the sentencing court. [Judgment of sentence following a] A plea of guilty or nolo contendere constitutes a conviction for purposes of this section.

§237.10. Surrender in lieu of discipline.

A professional educator's teaching certificate or a charter school staff member's eligibility to teach will be considered surrendered in lieu of discipline whenever the certificate or eligibility is surrendered to the Department after a local school entity furnishes the educator or charter school staff member with a written statement of charges for dismissal under section 1127 of the Public School Code of 1949 (24 P.S. §11-1127), or after the educator or charter school staff member is discharged for cause by a local school entity, or after the Department receives a report concerning the educator or charter school staff member under section 9.1 of the Professional Educator Discipline Act (24 P.S.

§2070.9a) (act), or after the Department receives a complaint concerning the educator or charter staff member under section 9 of the act (24 P.S. §2070.9).



Commonwealth of Pennsylvania
Professional Standards and Practices Commission

333 Market Street, Harrisburg, PA 17126-0333 Phone: (717) 787-6576 TTY (717) 783-8445 FAX (717) 783-0583
October 8, 2002

Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor
333 Market Street
Harrisburg, PA 17126

Re: Final Regulations --- Title 22, Chapter 237
#006-274

Dear Mr. Nyce:

Enclosed please find copies of final regulations for review by the Independent Regulatory Review Commission pursuant to the Regulatory Review Act. The final regulations, Chapter 237 (regulatory package # 006-274), provide amendments to definitions for specific terms used in the Professional Educator Discipline Act, 24 P.S. §2070.1 et seq.

The Regulatory Review Act provides that the Commission must, within 30 days from receipt of the final regulations, submit comments to the Professional Standards and Practices Commission regarding the regulations. We delivered the final regulations for review by the Committees on October 8, 2002.

The Professional Standards and Practices Commission will provide your Commission with any assistance necessary to facilitate a thorough review of these proposed regulations. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carolyn Angelo".

Carolyn Angelo
Executive Director

cc: Richard Hupper
Charles B. Zogby
Linda Barrett, Esquire

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 006-274
 SUBJECT: Definitions of Statutory Terms
 AGENCY: DEPARTMENT OF EDUCATION

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED
 LEGISLATIVE COMMISSION
 2002 OCT -9 PM 1:13

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10/8/02	<i>V. O'Leary</i>	HOUSE COMMITTEE ON EDUCATION
10/8/02	<i>M. J. ...</i>	
OCT 8 2002	<i>J. ...</i>	SENATE COMMITTEE ON EDUCATION
	<i>W. ...</i>	
10/8/02	<i>E. ...</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

October 4, 2002