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ROBERT E. NYCE, EXECUTIVE DIRECTOR  
MARY S. WYATTE, CHIEF COUNSEL



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

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

August 22, 2002

Carolyn Angelo  
Executive Director  
Professional Standards and Practices Commission  
333 Market Street, 12th Floor  
Harrisburg, PA 17101

Re: Regulation #6-274 (IRRC #2277)  
Professional Standards and Practices Commission  
Definitions of Statutory Terms

Dear Ms. Angelo:

Enclosed are the Commission's Comments which list objections and suggestions for consideration when you prepare the final version of this regulation. These Comments are not a formal approval or disapproval; however, they specify the regulatory criteria which have not been met.

The Comments will soon be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce  
Executive Director

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Enclosure

cc: Honorable Jess M. Stairs, Majority Chairman, House Education Committee  
Honorable Nicholas A. Colafella, Democratic Chairman, House Education Committee  
Honorable James J. Rhoades, Chairman, Senate Education Committee  
Honorable Allyson Y. Schwartz, Minority Chairperson, Senate Education Committee

# **Comments of the Independent Regulatory Review Commission**

**on**

## **Professional Standards and Practices Commission Regulation No. 6-274**

### **Definitions of Statutory Terms**

**August 22, 2002**

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The Professional Standards and Practices Commission (Commission) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

#### **1. Section 237.3. Immorality. – Reasonableness; Clarity.**

##### *Morals of the Commonwealth*

This section defines the term “immorality” as “...conduct which offends the *morals of the Commonwealth*...” (Emphasis added.) The phrase “morals of the Commonwealth” is undefined and vague. Moreover, Pennsylvania is comprised of many diverse communities. Given the Commission’s authority to discipline professional educators and charter school staff members which it has found guilty of “immorality,” standards of conduct should be established in clear and explicit terms.

#### **2. Section 237.9. Crimes involving moral turpitude. – Clarity.**

##### *Moral turpitude*

Subsection (a)(1) contains the following language used to describe the phrase “moral turpitude”: “private and social duties which a person owes to his fellow human beings or to society in general” and “an act of baseness, vileness or depravity, and contrary to the accepted and customary rule of right and duty between two human beings.”

This language is derived from case law. However, one of the purposes of regulations is to clarify the language used in both statutes and case law. Clarity would be improved by describing with more precision the actions which constitute “moral turpitude,” or providing examples in the final-form regulation.

*Specific crimes*

Subsection (c) sets forth a mechanism for the Commission to consider crimes added or deleted from the list of crimes in Section 111(e)(1) of the Public School Code of 1949 to determine if the crimes involve moral turpitude per se. The process states "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." We have two concerns.

First, the final-form regulation should specify how the Commission's decisions regarding crimes that are added or deleted to the list will be made available to the public. For example, will the Commission periodically publish a list of crimes that are considered crimes involving moral turpitude?

Second, the criteria the Commission will use for determining whether a crime involves moral turpitude per se are unclear. The Commission should include criteria for making this determination in the final-form regulation.