

IRRC

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From: Kintisch, Baruch [bkintisch@elc-pa.org]
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To: j buckheit@state.pa.us; IRRC
Subject: Comments on Chapter 49

Attached are comments we are submitting about the amendments proposed by the State Board of Education to 22 PA Code Chapter 49, Certification of Professional Personnel.

Please let me know when this may appear on the IRRC meeting agenda.

Thank you for your consideration. Please contact me with any questions.

Baruch

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Quality & Fairness in
Pennsylvania's Public Schools

EDUCATION LAW CENTER

November 23, 2005

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COMMENTS TO PROPOSED AMENDMENTS TO 22 PA. CODE CHAPTER 49, CERTIFICATION OF PROFESSIONAL PERSONNEL

The Education Law Center (ELC) is a non-profit legal advocacy and educational organization, dedicated to ensuring that all of Pennsylvania's children have access to a quality public education. We focus on the needs of "at risk" children, including children with disabilities, children of color, English Language Learners, and low-income students. ELC speaks with thousands of families every year, providing support to help parents get more involved in the education of their children and raise student achievement.

ELC submits the following comments to the amendments to 22 PA Code Chapter 49 proposed by the State Board of Education, regarding certification of professional personnel and published in the Pennsylvania Bulletin on October 29, 2005.

The State Board has made many excellent changes to Chapter 49, updating and strengthening the rules for teacher certification and professional development. The new definitions add clarity to the regulations, promoting more consistent implementation throughout the state. The emphasis on the academic needs of diverse learners will help schools to close the achievement gap for these students. The inclusion of long-term substitute teachers in the induction planning process will focus needed support and resources on their classrooms.

The following pages contain amendments that ELC is proposing to Chapter 49. These amendments were drafted through our Teacher Quality Coalition, a collaboration of dozens of individuals and organizations from throughout the state including many parents, advocates, university professors, teachers, and public school administrators.

Our proposed amendments focus on the needs of diverse learners. Pennsylvania's public schools are becoming increasingly diverse, with about 30 percent of all students coming from a low-income family, 13 percent of students having a disability, and about 40,000 students having limited English proficiency. Although the Board's revisions place greater emphasis on diverse learners, we hope that our suggestions can further strengthen teacher quality and ensure statutory compliance on this important issue. Our proposals also address the role of parents, the need to support new and under-certified teachers, and the definition of prekindergarten.

Thank you for your consideration. Please contact me with any questions.

Sincerely,

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Title 22. Education
Chapter 49. Certification of Professional Personnel

Teacher Quality Coalition – Proposed Amendment #1 – DEFINITION OF DIVERSE LEARNERS

Insert the following definition, which currently does not exist in the regulations. It is necessary for Chapter 49 to include a definition for the phrase “diverse learners”. As approved by the State Board of Education, the revisions to Chapter 49 add this important phrase in several new places, addressing the need for teachers to be prepared to teach diverse learners in an inclusive setting. Without a basic definition for “diverse learners”, this new term will be subject to unpredictable interpretation and the Board’s new requirements will not be consistently implemented throughout the state from school to school, district to district, and college to college.

Section 49.1. Definitions.

Diverse learners – Students with educational needs distinguished by factors such as disability or English language proficiency. Distinguishing factors also may include achievement level, cultural experience, learning style, or socioeconomic status. For all teachers, teaching diverse learners in an inclusive setting involves: recognizing students’ educational needs; making appropriate accommodations and adaptations in curriculum, academic content and materials, instructional strategy and classroom management; requesting and assisting the ongoing provision of identification, assessment, services and support for student needs; and maintaining an inclusive, nurturing, culturally competent and supportive educational environment.

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Teacher Quality Coalition – Proposed Set of Amendments #2 – INSERT “DIVERSE LEARNERS”

Insert the phrase “diverse learners” in several new places in the regulations. As approved by the State Board of Education, the revisions to Chapter 49 add this phrase in some places but overlook the need to add the phrase in other related places. For example, the Board added the phrase to the sections involving the state’s general guidance about teacher preparation in colleges and universities (§49.13(a)) and the content of induction plans (§49.16(d)) and continuing professional education plans (§49.17(a)(6)) formed by school entities. It appears that the Board overlooked the need to add this phrase to other closely related sections. More consistent use of the phrase is important to ensure realization of the Board’s intent for all teachers to be prepared to teach diverse learners in an inclusive setting. In addition, without the changes proposed below, the diverse learner requirements will arbitrarily apply for some teachers and administrators (and their students) and not for others.

Section 49.14. Approval of institutions.

To be authorized to conduct programs that lead to certificates for professional positions, institutions and any of their off-campus centers engaged in the preparation of teachers shall meet the following requirements:

...
(4) Follow Department prescribed standards developed from the following principles:

...
(ii) Institutions are able to demonstrate how instructional and clinical activities provide educator candidates with the capacity to enable the achievement of all students, including the capacity to teach diverse learners in an inclusive setting.

Section 49.18. Assessment.

(a) The Secretary will institute an assessment program for candidates for certification designed to assess their basic skills ~~and general knowledge~~; professional knowledge and practice; [and] subject matter knowledge; and ability to teach diverse learners in an inclusive setting. Candidates for elementary, K-12 instructional and early childhood certificates will also be assessed in the area of general knowledge. The following principles ~~shall~~ will guide the Secretary in the development of an assessment program:

...
(2) The assessment program will measure the candidate's abilities across the domains of basic skills knowledge, professional knowledge and practice, [and] subject matter knowledge, and ability to teach diverse learners in an inclusive setting employing a variety of measures at a minimum of three points:

Teacher Quality Coalition – Proposed Set of Amendments #2 (continued)

Section 49.111. Supervisory Certificate.

(a) The Department will issue Supervisory Certificates for positions in the schools of this Commonwealth to persons who:

...

(5) Meet the following standards:

...

(ii) The supervisor understands how all children learn and develop and configures resources to support the intellectual, social and personal growth of all students, including diverse learners in inclusive settings.

Section 49.121. Administrative Certificate.

...

(d) The Department will issue Administrative Certificates to persons who meet the following standards:

(1) The administrator demonstrates instructional leadership which provides purpose and direction for the achievement of all students, including teaching diverse learners in an inclusive setting and reducing achievement gaps between students.

Section 49.141. Vocational Instructional Certificates – General.

...

(b) The holder of a Vocational Teaching Certificate may also teach the technical skills and knowledge of the holder's occupation in courses of comparable content provided in secondary school programs which have not been accorded State approval as vocational education programs under the conditions in the policies and standards of the Department. Candidates for Vocational Teaching Certificates shall be able to help students achieve under Chapter 4 (relating to academic standards and assessment) and shall be able to teach diverse learners in an inclusive setting.

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Teacher Quality Coalition – Proposed Set of Amendments #3 – TEACHER PREPARATION

Additional detail is needed in the new requirements for preparing teachers to provide instruction to diverse learners in inclusive settings. As approved by the State Board of Education, the revisions to Chapter 49 focus needed attention on this general issue but fail to state how the Department will implement the new requirements. The Board has more recently addressed the need to “change the requirements for teacher certification in a number of areas as a way of meeting the requirements of NCLB [No Child Left Behind Act], Gaskins [a special education lawsuit settled by the state], and IDEIA [Individuals with Disabilities Education Improvement Act].”¹ At its meeting on November 16, 2005, the Board’s Chapter 49 Committee stated its intention to hold public hearings and pursue regulatory changes that will: (1) require educator candidates to complete coursework in effective instruction for special education and English language learners; (2) require the teacher induction programs of school entities to address the needs of diverse learners; (3) require teachers moving from a Level I to a Level II certificate to complete credits in teaching diverse learners; and (4) require teachers to complete ongoing professional education credits in teaching diverse learners. The following proposed changes would accomplish these goals and allow Pennsylvania’s system of public education to comply with federal and state law for students with disabilities, English language learners, and other diverse learners:

Section § 49.14. Approval of institutions.

To be authorized to conduct programs that lead to certificates for professional positions, institutions and any of their off-campus centers engaged in the preparation of teachers shall meet the following requirements:

...
(4) Follow Department-prescribed standards developed from the following principles:

...
(ii) Institutions are able to demonstrate how instructional and clinical activities provide educator candidates with the capacity to enable the achievement of all students, including the capacity to teach diverse learners in an inclusive setting. The institutions shall infuse such activities with a significant focus on the teaching of diverse learners in an inclusive setting and shall also require candidates to successfully complete the equivalent of at least twenty-four (24) credit hours on this subject including at least twelve (12) credit hours in special education and three (3) credit hours in teaching English language learners.

¹ This quote is from the “Summary and Recommendations” about teacher certification reforms approved by the Chapter 49 Committee of the State Board of Education at its meeting on November 16, 2005. This document can be found on-line at http://www.pde.state.pa.us/stateboard_ed/cwp/view.asp?Q=116336&A=3.

§ 49.16. Approval of induction plans.

(a) Each school entity shall submit to the Department for approval a plan for the induction experience for first-year teachers, long-term substitutes who are offered a position for 45 days or more, and educational specialists.

...

(d) Criteria for approval of the induction plans will be established by the Secretary in consultation with the Board and must include an element [of accommodations and adaptations for diverse learners] that requires at least one-third of the induction activities to involve a significant focus on the teaching of diverse learners in an inclusive setting.

Section 49.17. Continuing professional development education.

(a) ...

(7) The Secretary shall promulgate and enforce guidelines requiring professional personnel to devote at least one-third of their professional education activities to study involving a significant focus on the teaching of diverse learners in an inclusive setting.

Section 49.83. Instructional II.

The Instructional II Certificate will be a ~~permanent certificate~~ issued to an applicant who has completed:

...

(3) Twenty-four credit hours of collegiate study or its equivalent ~~in inservice courses approved by the Department or both.~~ in credits from the Department, a Pennsylvania Intermediate Unit or any combination of the above. At least twelve (12) of these credit hours shall involve study with a significant focus on the teaching of diverse learners in an inclusive setting including at least three (3) credit hours in special education and three (3) credit hours in teaching English language learners.

Section 49.142. Vocational Instructional I.

(a) ... The applicant shall have:

...

(3) Completed 18 credit hours in an approved program of vocational teacher education, including at least six (6) credit hours involving study with a significant focus on the teaching of diverse learners in an inclusive setting.

Section 49.143. Vocational Instructional II.

The Vocational Instructional II Certificate shall be a permanent certificate issued to an applicant who has:

...

(2) Completed 60 credit hours in an approved program in the appropriate field of vocational education, including at least twenty (20) credit hours involving study with a significant focus on the teaching of diverse learners in an inclusive setting.

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Teacher Quality Coalition – Proposed Amendment #4 – PARENT ROLE & TEACHER MENTORS
Induction plans are important tools for strengthening the initial job performance and professional development of new teachers. As approved by the State Board of Education, the Chapter 49 section on induction plans erroneously omits the role of parents and includes only a vague reference to “a mentor relationship”.² More regulatory detail is needed to ensure meaningful and consistent implementation of these requirements.

Section 49.16. Approval of induction plans.

(a) Each school entity shall submit to the Department for approval a plan for the induction experience for first-year teachers, long-term substitutes who are offered a position for 45 days or more, and educational specialists. The induction plan shall be submitted as part of the school entity’s strategic plan every 6 years as required by Chapter 4 (relating to academic standards and assessments). The induction plan shall be prepared by teacher or educational specialist representatives, or both, chosen by teachers and educational specialists, parent representatives chosen by parents of children enrolled in the school entity and administrative representatives chosen by the administrative personnel of the school entity. Newly employed professional personnel with prior school teaching experience may be required by the school entity to participate in an induction program.

...

(e) The induction plan shall describe the provision of mentors to first-year teachers, long-term substitutes and educational specialists and the procedure for documenting the particular support provided by each mentor.

(1) Mentors shall provide ongoing one-on-one support including observing the classroom, reviewing lesson plans, sharing materials and offering practical advice for the full school year or for the length of the substitute’s stay.

(2) Mentors shall hold a valid Instructional II Certificate and shall have substantial experience in teaching diverse learners in an inclusive setting. First-year teachers, long-term substitutes and educational specialists working substantially with students with disabilities, English language learners, children from low-income families or another group of diverse learners shall receive mentors who have substantial experience in teaching that particular group of students.

(f) The induction plan shall also describe the supervision and support provided to first-year teachers, educational specialists, long-term or day-to-day substitute teachers, and teachers holding an emergency permit or intern certificate assigned for any length of time to a classroom where all students have disabilities, where all students are English language learners, where all students are enrolled in an alternative educational program for disciplinary reasons, or to other classrooms where the school entity finds that these teachers will benefit from extra assistance.

² Pennsylvania was criticized for having a weak system for new teacher mentors in “Quality Counts 2005”, issued by *Education Week* and found online at <http://www.edweek.org/ew/qc/2005/tables/17gradesum-t1.html>.

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Teacher Quality Coalition – Proposed Amendment #5 – PARENT ROLE IN DISTRICT PLANS

Professional education plans are important tools for strengthening the job performance and professional development of teachers and the academic achievement of students. As approved by the State Board of Education, the Chapter 49 section on professional education plans erroneously omits the role of parents as required by 24 P.S. §12-1205.1. This error must be corrected.

§ 49.17. Continuing professional development education.

(a) ...

(3) The continuing professional ~~development~~ education plan shall be developed by teacher representatives chosen by the teachers, educational specialists chosen by educational specialists, parents of children enrolled in the school entity as appointed by the board of directors and administrative representatives chosen by the administrative personnel of the school entity as specified in section 1205.1 of the act. The plan must describe the persons who developed the plan and how the persons were selected.

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Teacher Quality Coalition – Proposed Set of Amendments #6 –TEACHER ASSIGNMENT LIMIT

As approved by the State Board, the Chapter 49 sections for intern teachers, emergency teachers, long-term substitutes, and day-to-day substitutes do not limit the classrooms in which these teachers may be assigned. Since these teachers have not satisfied the certification requirements of regularly certified teachers, they should not be assigned for extended time periods to teach students with the most complex needs – students with disabilities, English language learners, or students with disciplinary problems. The regulations should be amended to limit the assignment of “under-certified” teachers to no more than 20 consecutive school days or 40 days in a given year in these classrooms. Schools would have flexibility to address exceptional circumstances by filling the position with one person for a continuous period, seeking an Exceptional Permit pursuant to Section 49.32 of the regulations, or transferring a fully certified teacher into the position from another classroom. These changes would ensure that the most vulnerable students do not receive the least qualified teachers, in violation of NCLB, 20 U.S.C. 6311(b)(8)(C).

Section 49.31. Criteria for eligibility.

The Department may issue an emergency, long-term or day-to-day substitute permit for service in the public schools, at the request of the employing public school entity, to an applicant who is a graduate of a 4-year college or university to fill a ~~professional vacancy~~ vacant position or serve as a long-term or day-to-day substitute teacher, when a fully qualified and properly certificated applicant is not available. The emergency permit is issued on the basis of terms and conditions agreed upon between the requesting public school entity and the Department. Each July, the Department will report to the Board the number and nature of emergency, long-term and day-to-day substitute permits issued during that year. The permits shall only be used under the following enumerated conditions when filling a position in a classroom where all students have disabilities, where all students are English language learners, or where all students are enrolled in an alternative educational program for disciplinary reasons: (a) The permit may be used to fill a position in one of these classrooms for no more than twenty consecutive school days and for no more than a total of forty school days in a given school year; and (b) The twenty day or forty day time limits may be exceeded only by filling the position with one person, holding an emergency or long-term substitute permit or an intern certificate, for a continuous period in a given school year until the position is filled with a teacher holding an instructional certificate.

Section 49.91. Criteria for eligibility.

(e) The Intern certificate shall only be used under the following enumerated conditions when filling a position in a classroom where all students have disabilities, where all students are English language learners, or where all students are enrolled in an alternative educational program for disciplinary reasons: (a) The certificate may be used to fill a position in one of these classrooms for no more than twenty consecutive school days and for no more than a total of forty school days in a given school year; and (b) The twenty day or forty day time limits may be exceeded only by filling the position with one person, holding an emergency or long-term substitute permit or an intern certificate, for a continuous period in a given school year until the position is filled with a teacher holding an instructional certificate.

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Teacher Quality Coalition – Proposed Amendment #7 – NEW TEACHER RESPONSIBILITIES

As approved by the State Board of Education, the Chapter 49 regulations do not distinguish between the professional responsibilities of new teachers and experienced teachers. Just as new teachers need support from induction plans, mentors, and university partnerships (required in various sections of Chapter 49), a lower teaching load for new teachers will also improve their initial job performance, professional development, and retention rate. These changes are needed to improve instructional effectiveness, raise student achievement, and decrease the high number of teachers who resign from their position each year – over 4,500 in 2002-03. These changes would also discourage the common practice of assigning the newest teachers – who are sometimes the least qualified – to teach the most vulnerable students, in violation of NCLB, 20 U.S.C. 6311(b)(8)(C).

Section 49.19 – Initial Teaching Responsibilities.

The Secretary will promulgate and enforce guidelines ensuring that the instructional responsibilities of teachers with an Instructional I Certificate, an Intern Certificate, an Emergency Permit, or a Long-term Substitute Permit are balanced with their responsibilities for professional development and support. When possible, these teachers should receive a lower teaching load and should not be assigned to teach students with the most complex educational needs, although teachers may assume more instructional responsibilities as they gain experience. The guidelines shall recognize the extra time needed by these teachers for participation in a mentor relationship, induction activities, professional education, lesson planning, and non-instructional activities.

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Teacher Quality Coalition – Comments about PREKINDERGARTEN

As approved by the State Board of Education, Section 49.1 of the Chapter 49 regulations includes a new definition for “prekindergarten.” ELC submitted comments to IRRC dated November 21, 2005 on a separate set of regulations, 22 PA Code Chapter 4, which include a parallel definition of the same prekindergarten term. We also recognize that a new version of the provisions of these regulations relating to pre-kindergarten programs is presently working its way through the Early Childhood Committee and the Board. We have already put ourselves “on record” with respect to the newest proposals, including specific recommended language for the definition of prekindergarten. Our primary concern is that the current definition excludes students with disabilities in violation of state and federal law. We assume that the Board will eventually act to ensure conformity in the definition of this term between the two sets of regulations. Thus, our comments submitted about the Chapter 4 definition of prekindergarten also apply to the definition in Chapter 49.