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KIM KAUFMAN, 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

January 11, 2006

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

Re: Regulation #6-297 (IRRC #2506)
State Board of Education
Higher Education General Provisions

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,

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 #6-297 (IRRC #2506)

Higher Education General Provisions

January 11, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the November 12, 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 31.1. Purpose and scope. - Need; Clarity.

In Subsection (e), the proposed regulation contains new language labeled as a new Paragraph (1). There are two concerns.

First, there is no need to enumerate a paragraph as “(1)” if there is no paragraph labeled as “(2).”

Second, in Subparagraph (iii), what mandates or requisites are included in the phrase “all other requirements to operate in this Commonwealth as defined in this subpart”? This provision should reference the specific operational requirements that these institutions are expected to meet.

2. Section 31.2. Definitions. - Consistency with the statute; Clarity.

CEC – Community Education Council

The definition of this term in the proposed regulation is very similar to the statutory definition of the term at 24 P.S. § 19-1901-d(1). However, the regulatory definition is longer than the statutory definition and includes substantive provisions from other sections of the statute. Substantive provisions in a definition are not enforceable. Therefore, the Board should move substantive provisions to a section establishing the parameters of and requirements for CECs. The definition of this term in Section 31.2 should either reference the statutory definition or repeat it verbatim in the regulation.

3. Section 31.21. Curricula. - Reasonableness; Implementation procedure; Clarity.

Subsection (b) Degree requirements

This subsection includes degree requirements for different programs in semester or quarter credit hours. We have two concerns.

First, we question the meaning of the term “general education” as it applies to “specialized associate degree” in Paragraph (2). The Pennsylvania Association of Private School Administrators indicates that “general education” for “ASB – Associate in Specialized Business”

or “AST – Associate in Specialized Technology” degrees should specifically apply to and support the specialized program of the school. People enroll in specialized programs to focus on the tools and skills they need for a specific occupation. Usually, they are not expecting nor do they want to pay for a general education which features the possible breadth of a “liberal arts” experience. There is also a concern with how Department of Education staff will interpret the term “general education.” The term “general education” is used for associate degrees in Paragraph (1), specialized degrees in Paragraph (2), and baccalaureate degrees in Paragraph (3). In addition, the proposed regulation replaces the term “the arts and sciences” with the term “general education” in Paragraph (3). The impact of this change on the meaning of the term “general education” is unclear. The Board should clarify the meaning and its interpretation of the term for each degree or consider the use of different terms.

Second, the structure of this section in the proposed regulation is confusing. It places two new paragraphs labeled as (i) and (ii) in front of existing paragraphs labeled as (1)-(6). The intent in using both Roman and Arabic numbers for these paragraphs is unclear. The new Paragraphs (i) and (ii) define “semester credit hour” and “quarter credit hour” respectively. As recommended in Chapter 7 of the *Pennsylvania Code & Bulletin Style Manual*, Paragraphs (i) and (ii) should be placed as subparagraphs of a paragraph labeled with an Arabic number. The two new subparagraphs could be placed in a new Paragraph (1), which defines terms as used in Subsection (b). The existing Paragraphs (1)-(6) could be renumbered as (2)-(7).

Subsection (d) Distance education programs

The last sentence of Subsection (d) reads:

These [distance education] programs must comply with the regulations and policies that apply to resident-based programs.

This provision should reference the specific “regulations and policies” that will apply to both distance education and resident-based programs.

4. Section 31.33. Student records and services. - Clarity.

In Subsection (a), the proposed regulation adds new language which includes these two sentences:

Institutions shall adopt a plan for the collection, maintenance and dissemination of student academic, counseling, health and other records. Copies of the plan shall be maintained by the institution and updated as required by changes in **State or Federal law or local policy**. [Emphasis added.]

What types of laws or policies are included in the phrase “changes in State or Federal law or local policy” and how would they impact the required plans at these institutions? This section should include specific references to the laws or local policies that could require updates in the plans of the institutions.

New language added in Subsection (b)(7) reads:

Compliance with State and Federal laws and regulations regarding reasonable accommodation for students with special needs.

This provision should reference the specific laws and regulations that are pertinent to students with special needs at the covered institutions.

IRRC #2506 #6-297
State Board of Education
Higher Education General Provisions

James Buckheit, Executive Director

A handwritten signature in cursive script, appearing to read "Susan Best", is written over a horizontal line.

Date:

A handwritten date "1/11/06" is written in cursive script over a horizontal line.