

RECEIVED



2006 MAR 13 AM 8:44
INDEPENDENT REGULATORY
REVIEW COMMISSION

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
333 MARKET STREET
HARRISBURG, PA 17126-0333
www.pde.state.pa.us

March 9, 2006

The Honorable Raphael Musto
Senate of Pennsylvania
Senate Box 203014
Harrisburg, PA 17120-3014

Dear Senator Musto:

Thank you for your letter inquiring into the Department of Education's preparation of regulations concerning vocational education. We appreciate the concern you brought forth regarding the authority of the Department and State Board for Vocational Education to promulgate regulations.

We have reviewed your concerns and believe that the State Board for Vocational Education and Department of Education have followed existing state laws that address their role in the preparation of standards related to Vocational Education. This authority is established in the Public School Code of 1949, 24 P.S. §§ 18-1801 – 1855, and 22 Pa. Code § 4.32(a). Several of the citations noted in the letter from your office support the role of the Department and the State Board for Vocational Education in promulgating standards for vocational education (see enclosure).

Certain citations referenced in your letter indicate that the State Board for Vocational Education has the authority to adopt certain standards prepared by the Department. The starting point in identifying the role of the State Board for Vocational Education is found under 24 P.S. §18-1801(1) which establishes and vests the Vocational Board with the power to administer Article 18. 24 P.S. § 18-1801(1). The Vocational Board's authority to adopt and approve certain standards prepared by the Department is found in section 18-1841. Specifically, this section expressly confers upon the Department the authority to prepare standards governing the establishment and operation of technical institutes as well as standards governing courses and equipment for area vocational-technical schools and technical institutes. Section 18-1841 also provides that the standards prepared by the Department be approved and adopted by the Vocational Board. In the present case, proposed Chapter 339 contains standards relating to the establishment and operation of technical institutes as well as courses and equipment for area vocational technical schools and technical institutes. (*See, e.g.*, section 339.56 of proposed Chapter 339, relating to Technical Institutes). It is clear that Article 18 directed the Department to prepare those standards and directed that the Vocational Board approve and adopt those standards.

Also, provisions in The Pennsylvania Code serve as support for the Department's authority to prepare the proposed Chapter 339. Specifically, in 22 Pa. Code § 4.32(a), the State Board of Education expressly granted responsibility to the Secretary to promulgate standards appropriate for implementing vocational technical education.

Finally, it should be noted that the General Assembly tacitly conferred authority to the Secretary to prepare standards relating to vocational education in section 25-2502.8 (relating to payments on account of pupils enrolled in vocational curriculums). Section 25-2502.8(b) provides that school districts and area vocational-technical schools will be reimbursed based on the students enrolled in "vocational curriculums." The General Assembly conferred upon the Secretary the duty to review and approve vocational curriculums. Section 25-2502.8(a). To effectively fulfill this obligation, the Department, through existing Chapter 339 and revisions thereto, prepared standards establishing the criteria for curriculum approval.

Please note that the existing Chapter 339 Vocational Education standards have been revised following the law as set forth in both the Public School Code and State Board regulations. This process has included the review and approval by the State Board for Vocational Education at the June 2005 meeting.

If you would like to discuss this issue, please contact me and I will arrange for a meeting or if you have questions or other concerns, please contact me. Again we appreciate you bringing this issue to our attention, and hope we have satisfactorily answered your concerns.

Sincerely,



Lee Burket, Ed.D.
Acting Director
Bureau of Career and Technical Education

Cc: Gerald Zahorchak
Diane Castelbuono
John McGinley ✓

Pennsylvania School Code of 1949

Levin, M.I. (Ed.). (2003). *2003-2004 Pennsylvania School Laws and Rules Annotated* (Vol. 1). Eagan, MN: West.

24 PS 18-1801(1) notes that the State Board for Vocational Education is vested with the authority (“power”) to administer this article (Article 18 Vocational Education) under the designation of the State Board for Vocational Education.

24 PS 18-1802 notes that the Secretary of Education shall be the executive officer of the State Board for Vocational Education. He appoints experts to assist in carrying out the provisions of the act.

24 PS 18-1803 notes the duties of the State Board for Vocational Education and its authority to investigate and aid in the introduction of vocational programs, to assist in the establishment of schools and departments for vocational education and to inspect and approve vocational education programs and departments.

24 PS 18-1804 notes the role of the State Board for Vocational Education in regards to staffing of vocational schools and a reference is made to the State Plan for Vocational Education. The State Plan for Vocational Education as approved by the Federal Board for Vocational Education presents the program administration responsibilities of the Department of Education. The state plan also includes the accountability and evaluation responsibilities of the Department of Education.

24 PS 18-1810 notes that vocational schools or departments that are approved by the State Board for Vocational Education are eligible to receive reimbursement subject to Article 25.

24 PS 18-1841 notes that area vocational technical schools and technical institutes are to be formed and are to conform with standards prepared by the Department of Education and approved by the State Board for Vocational Education.

24 PS 18-1849 addresses local schools wishing to change an attendance area and that the State Board for Vocational Education approves the change of attendance area.

24 PS 18-1851 authorizes the Secretary of Education to make judgment on whether the provisions of Article 18 have not been met or whether the vocational education needs of children and adults are not being adequately served. If such a finding is made, the Department is authorized to provide the necessary education and eligibility for enrollment is determined by standards and regulations promulgated by the State Board for Vocational Education.

24 PS 26-2603, 2603-B(k) and 2606-B note that the State Board of Education makes all rules and regulations and approves policy, standards, rules and regulations developed, modified by the Department of Education under the control of the board.

RECEIVED
MARCH 13 AM 8:41
INDEPENDENT REGULATORY
REVIEW COMMISSION

MEETING OF THE STATE BOARD FOR VOCATIONAL TECHNICAL EDUCATION
June 30, 2005

The State Board for Vocational Technical Education was convened on Thursday, June 30, 2005 in the Honors Suite of the Education Building, 333 Market Street, Harrisburg, PA. Public notice of the meeting was published in accordance with the Sunshine Act of 1986. The meeting was called to order by Karl R. Girton, Chairperson at 8:36 a.m.

Attending:

Karl R. Girton, Chairperson

Luis Ramos
Constance Davis
Edward Donley
Edith Isacke James Fogarty
Mollie Phillips
Larry Wittig

Francis Michelini
Richard Bunn
Francine McNairy
Rep. Jess Stairs

Absent:

James Barker
Sen. James Rhoades
Rep. James Roebuck
Karen Farmer White

James Agras
Sen. Raphael Musto
David Saxe

RECEIVED
2006 MAR 13 AM 8:41
INDEPENDENT REGULATORY
REVIEW COMMISSION

At the June 2005 meeting of the State Board for Vocational Education, the board approved the proposed changes to Chapter 339.

ACTION ITEMS

Upon a motion by Edith Isacke, seconded by Richard Bunn the Chapter 339 Vocational Education Program Approval Standards were approved by unanimous voice vote.

FEB 15 2006

RAPHAEL MUSTO

14TH DISTRICT
SENATE BOX 203014
HARRISBURG, PA 17120-3014
PHONE: (717) 787-7105
FAX: (717) 783-4141

DISTRICT OFFICE
P.O. BOX 786
81 SOUTH MAIN STREET
PITTSBURGH, PA 15222-0786
(717) 654-1483
(717) 823-2711
(717) 459-6366
TOLL FREE: 1-800-280-4277
FAX: (717) 826-5470

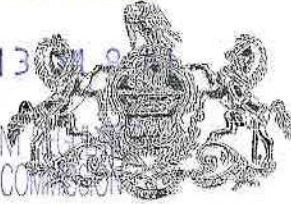
PLEASE RESPOND TO THE ADDRESS
OF THE BOX CHECKED.

E-MAIL: musto@pasenate.com
WEBSITE: www.senatormusto.com

RECEIVED

2006 MAR 13 10 08 AM

INDEPENDENT
REVIEW COMMISSION



Senate of Pennsylvania

COMMITTEES

EDUCATION, DEMOCRATIC CHAIR
ENVIRONMENTAL RESOURCES AND
ENERGY, DEMOCRATIC CHAIRMAN
APPROPRIATIONS
COMMUNITY AND ECONOMIC DEVELOPMENT
RULES AND EXECUTIVE NOMINATIONS
DEMOCRATIC POLICY
JOINT LEGISLATIVE AIR, WATER
POLLUTION CONTROL AND
CONSERVATION COMMITTEE

ENVIRONMENTAL QUALITY BOARD
PENNVEST AUTHORITY BOARD
WILD RESOURCE CONSERVATION BOARD
PARKS AND FOREST FOUNDATION
LOW-LEVEL WASTE ADVISORY COMMITTEE
MINING AND RECLAMATION BOARD
CSG 2006 HOST COMMITTEE, CO-CHAIR
STATE EMPLOYEES RETIREMENT BOARD

February 14, 2006

Lee Burket, Acting Director
Bureau of Career and Technical Education
333 Market Street
Harrisburg, PA 17126-0333

Re: Title 22, Chapter 339

Dear Ms. Burket:

After further review of the regulations proposed by the Department of Education to amend Chapter 339 (relating to vocational education), my staff brought to my attention a question concerning the authority of the Department to write regulations concerning vocational education. I felt I should bring this matter to your attention immediately.

In its Preamble to the aforesaid regulations, the Department proposes to amend Chapter 339 pursuant to the authority set forth in certain named sections of the Public School Code. Our review of these sections, however, does not reveal support for this authority. Instead, many of the sections seem to imply (and some state quite clearly) that whether initiated by the Department or by one of the Board's Council, all rules and regulations shall be submitted to the Board for approval, modification or rejection. The process of approving changes to regulations would seem, therefore, to have to begin with issuance of the proposed changes *by the State Board, not by the Board of Vocational Education and not by the Department.* (I direct your attention, for example, to the following sections: 1801, 1803, 1804, 1810, 1841, 1849, 1851 and 2603, 2603-B (k) and 2606-B.)

If, in fact, the Department lacks authority to write regulations concerning vocational education, the likelihood of IRRC disapproval is great. It would therefore seem appropriate to take action now to correct this problem.

I would appreciate your review of and opinion on this matter.

Thank you for your attention and cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray", written in a cursive style.

Raphael J. Musto
Democratic Chair
Senate Education Committee

Cc: John McGinley, Chair, IRRC