

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency
State Board of Education

(2) Agency Number: 6
Identification Number: 6-333

IRRC Number: 3149

(3) PA Code Cite: 22 Pa. Code §§ 12.41, 14.104, 16.4, 49.16 and 49.17

(4) Short Title: Strategic Planning

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Karen Molchanow, Executive Director, State Board of Education (717) 787-3787
kamolchano@pa.gov

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation
 Final Regulation
 Final Omitted Regulation

- Emergency Certification Regulation
 Certification by the Governor
 Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

In 2013, the State Board of Education approved substantive changes to 22 Pa. Code, Chapter 4. Published as final rulemaking in the March 1, 2014, issue of the *Pennsylvania Bulletin* (see 44 Pa.B. 1131), the Board deleted completely the requirement that school districts submit strategic plans. This final-omitted regulation updates current provisions in four other chapters that currently reference the deleted strategic plan requirement. The changes align these four chapters with the rulemaking published in March 2014. The amendments in this rulemaking do not include any substantive changes to Chapter 12, 14, 16 or 49.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Sections 121, 2603-B and 2604-B of the Public School Code of 1949 (24 P.S. §§ 1-121, 26-2603-B, 26-2604-B)

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as

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possible and approximate the number of people who will benefit.

The regulation is needed to provide clarity and consistency and to avoid unnecessary confusion. Students, parents, educators and school administrators will benefit from clarity in the regulations.

(11) 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 regulations.

No.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

The regulation contains no substantive change. Hence, it will have no impact. In fact, it will save time by preventing unnecessary questions and confusion.

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

No.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

This regulation aligns provisions of four other chapters with the changes recently made to 22 Pa. Code 4.13. Those underlying changes underwent full regulatory review, with opportunity for public comment during the proposed rulemaking stage.

In addition, the Board offered an opportunity for public comment on the technical amendments included in this package during its public meeting on November 13, 2014.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations that will be affected by the regulation. How are they affected?

Students	1,758,000
Total Professional Staff	148,520
Principals	3,120
School Districts	500
Area Vocational-Technical Schools / Career Technology Centers	78
Intermediate Units	29
Charter Schools	159
Cyber Charter Schools	14

Parties affected by the regulation will have greater clarity in requirements related to planning due to the alignment of related provisions across Chapters.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

See item #15.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The changes in this regulation should reduce confusion and the need for questions about inconsistencies that currently exist in these four chapters.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

Since there is no new cost, any minor benefit from eliminating confusion is a positive outcome.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures that may be required. Explain how the dollar estimates were derived.

The amendments do not carry new costs or savings for the regulated community.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures that may be required. Explain how the dollar estimates were derived.

The amendments do not carry new costs or savings for local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures that may be required. Explain how the dollar estimates were derived.

Since the regulation contains no substantive changes, there are no new costs to state government. Any savings would be derived from a possible decrease in any communications from teachers or local education agency staff asking the Department to explain the current inconsistencies in the four chapters.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, that will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

There is no substantive change in the regulations. Therefore, there are no new procedures or requirements for reporting.

(23) 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 Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

No special regulatory methods to minimize any adverse impact on small businesses were considered because the regulatory change is not expected to have any impact on small businesses.

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

No special provisions have been developed to meet the needs of any group.

(26) Include a description of any alternative regulatory provisions that have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Alternative regulatory approaches were not considered as the purpose of these amendments is to conform 22 Pa. Code §§ 12.41, 14.104, 16.4, 49.16 and 49.17 with prior revisions for 22 Pa. Code § 4.13.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

No special regulatory methods to minimize any adverse impact on small businesses were considered because the regulatory change is not expected to have any impact on small businesses.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or

supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

The Board has not relied on data to justify this regulation.

(29) Include a schedule for review of the regulation including:

- | | |
|---|------------------|
| A. The date by which the agency must receive public comments: | <u>N/A</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>July 2016</u> |
| D. The expected effective date of the final-form regulation: | <u>July 2016</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>July 2016</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

Consistent with its practice for all its regulations, the Board will review this regulation every four years.

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

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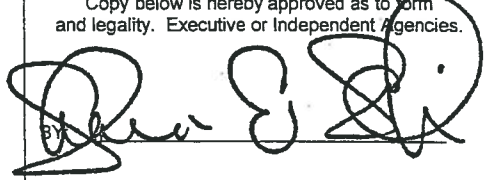
Copy below is hereby approved as to form and legality. Attorney General

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

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

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Education
(AGENCY)

BY: 

DOCUMENT/FISCAL NOTE NO. 6-333

DATE OF ADOPTION: 11/13/2014

BY: Karen Molchanow Karen Molchanow

TITLE Executive Director
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

4/22/15
DATE OF APPROVAL

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

Check if applicable
Copy not approved. Objections attached.

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

FINAL-OMITTED RULEMAKING

STATE BOARD OF EDUCATION

[22 PA. CODE CHS. 12, 14, 16 and 49]

Strategic Planning

The State Board of Education (Board) amends §§ 12.41, 14.104, 16.4, 49.16 and 49.17 (relating to strategic planning) to read as set forth in Annex A as a final-omitted rulemaking. The Board acts under authority of Sections 2603-B and 2604-B of the Public School Code of 1949 (24 P.S. §§ 26-2603-B, 26-2604-B).

Summary

On March 1, 2014, the Board published in the *Pennsylvania Bulletin* (44 Pa.B. 1131) a final rulemaking that made substantive changes to Chapter 4 (relating to academic standards and assessments). Among several amendments to Chapter 4, the rulemaking deleted the requirement in § 4.13 (relating to strategic plans) that school districts, area vocational-technical schools and charter schools submit strategic plans every six years.

The language in § 4.13 now provides for transitions from strategic plans to different types of specific plans required under other existing regulations. These other plans are found in 22 Pa. Code Chapters 12, 14, 16 and 49 (relating to student services, special education services and programs, special education for gifted students, and certification of professional personnel). Provisions of these four chapters retain language that references the strategic planning requirements that are no longer part of Chapter 4. Therefore, technical corrections to these chapters are necessary for consistency with Chapter 4.

Provisions of the Regulation

The amendments update references to § 4.13 in five different sections to match the existing requirements in the corresponding subsections of § 4.13. Changes encompass deletions of references to Chapter 4 that are now inaccurate given the 2014 amendments. The deleted text is replaced with corrected references.

Section 12.41(a) (relating to student services) now references the time frames and procedures described in § 4.13(c). In Chapter 14, the text of § 14.104(a) (relating to special education plans) refers to § 4.13(d). Section 16.4 (relating to gifted education plans) references § 4.13(e). Finally, §§ 49.16 and 49.17 (relating to approval of induction plans and continuing professional education) include references to § 4.13(b) and (a), respectively.

Affected Parties

Since the amendments repair inconsistencies between existing regulations and make no substantive changes, this rulemaking has no impact on any potentially affected parties.

Cost and Paperwork Estimates

The final-omitted regulation does not carry a new cost for the regulated community. The amendments do not alter current paperwork or reporting requirements nor do they create new paperwork or reporting requirements.

Effective Date

The final-omitted rulemaking is effective upon publication in the *Pennsylvania Bulletin*.

Sunset Date

The Board will review the effectiveness of these provisions every four years in accordance with its policy and practice respecting all of its regulations. Thus, no sunset date is necessary.

Contact Person

Interested persons may contact Karen Molchanow, Executive Director of the State Board of Education, at 333 Market Street, Harrisburg, PA 17126-0333; (717) 787-3787; or ra-stateboardofed@pa.gov.

Final-Omitted Rulemaking

The Board promulgates this regulation as final-omitted rulemaking because it meets the criteria established in Section 204(3) of the Commonwealth Documents Law (45 P.S. § 1204(3)). The amendments conform §§ 12.41, 14.104, 16.4, 49.16 and 49.17 to the language in § 4.13. The substantive change occurred with the publication of amendments to Chapter 4 in 2014 for which there had been a notice of proposed rulemaking and a public comment period. This rulemaking contains no substantive change and includes only minor technical revisions that alleviate possible confusion and align these four other chapters with the existing language in Chapter 4. Therefore, publication of another notice of proposed rulemaking with a public comment period would be, in these circumstances, impracticable, unnecessary and contrary to the public interest.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on May 26, 2016, the Board submitted a copy of the final-omitted regulation to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Education and the Senate Committee on Education. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on **TBD**, the regulation was deemed approved by the House and Senate Education Committees. Under

section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)), IRRC met and approved the regulation on **[INSERT DATE of IRRC public meeting]**.

Findings

The Board finds that:

(1) Notice of proposed rulemaking is impracticable, unnecessary and contrary to the public interest under section 204(3) of the Commonwealth Documents Law and the regulations thereunder, 1 Pa. Code § 7.4(3).

(2) The amendment of the regulation in the manner provided in this order is necessary and appropriate for administration of the Public School Code of 1949.

Order

Acting under the authority of the Public School Code of 1949, the Board orders that:

(a) The regulations of the Board, 22 Pa. Code Chapters 12, 14, 16 and 49, are amended by amending §§ 12.41, 14.104, 16.4, 49.16 and 49.17 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(b) The Executive Director of the Board shall 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 Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order is effective upon publication in the *Pennsylvania Bulletin*.

KAREN MOLCHANOW
Executive Director

ANNEX A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

CHAPTER 12. STUDENTS AND STUDENT SERVICES

SERVICES TO STUDENTS

§ 12.41. Student services.

(a) Each school entity shall prepare a written plan for the implementation of a comprehensive and integrated K-12 program of the student services based on the needs of its students. The plan shall be prepared and revised in accordance with the time frames and procedures described in [§§ 4.13(a), (b), (d), (e) and (f)] § 4.13(c) (relating to strategic plans). Services offered by community agencies in public schools shall be coordinated by and under the general direction of the school entity. The plan must include policies and procedures for emergency care and administration of medication and treatment under The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144) and guidelines issued by the Department of Health. The Department of Health guidelines are available from the Division of School Health, Department of Health, P.O. Box 90, Harrisburg, Pennsylvania 17108. A school district that operates a prekindergarten program shall address its prekindergarten program in **[its strategic plan] the plan developed pursuant to § 4.13(c). A school entity shall make its**

As approved by the State Board of Education on November 13, 2014

All additions and deletions are highlighted in **Bold** type

[bracketed items] are deletions

underscored items are additions

student services plan available for public inspection and comment for a minimum of 28 days prior to approval of the plan by the school entity's governing body.

As approved by the State Board of Education on November 13, 2014

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[bracketed items] are deletions

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ANNEX A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

CHAPTER 14. SPECIAL EDUCATION SERVICES AND PROGRAMS

GENERAL PROVISIONS

§ 14.104. Special education plans.

(a) Each school district shall develop and implement a special education plan **[aligned with the strategic plan of the school district under § 4.13 (relating to strategic plans)]**. The special education plan shall be **[developed] submitted to the Department for approval** every 3 years **in accordance with § 4.13(d) (relating to strategic plans) [consistent with the phase of the strategic plan of the school district]**. The Secretary will prescribe the format, content and time for submission of the special education plan. **A school district shall make its special education plan available for public inspection and comment for a minimum of 28 days prior to approval of the plan by the school district's board of directors and submission of the plan to the Department.**

As approved by the State Board of Education on November 13, 2014

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ANNEX A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

CHAPTER 16. SPECIAL EDUCATION FOR GIFTED STUDENTS

GENERAL PROVISIONS

§ 16.4. [Strategic plans] Gifted Education Plans.

(a) In accordance with § 4.13(e) (relating to strategic plans), [Each] each school [district's strategic plan developed under Chapter 4 (relating to academic standards and assessments) must include procedures for the education of all gifted students enrolled in the district. The strategic plan] district shall [be developed to ensure the implementation of] develop and implement a gifted education [plans] plan every 6 years. A school district shall make its gifted education plan available for public inspection and comment for a minimum of 28 days prior to approval of the plan by the school district's board of directors.

As approved by the State Board of Education on November 13, 2014

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ANNEX A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

CHAPTER 49. CERTIFICATION OF PROFESSIONAL PERSONNEL

SUBCHAPTER A. GENERAL PROVISIONS

THE PROGRAM

§ 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 (including teachers in prekindergarten programs, when offered), long-term substitutes who are hired for 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)]** under § 4.13(b) (relating to strategic plans). The induction plan shall be prepared by teacher or educational specialist representatives, or both, chosen by teachers and educational specialists 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. **A school entity shall make its induction plan available for public inspection and comment for a minimum of 28 days prior to approval of the plan by the school entity's governing board and submission of the plan to the Department.**

As approved by the State Board of Education on November 13, 2014

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[bracketed items] are deletions

underscored items are additions

§ 49.17. Continuing professional education.

(a) As required under § 4.13(a) (relating to strategic plans), [A] a school entity shall submit to the Secretary for approval a 3-year professional education plan every 3 years [as part of its strategic plan] in accordance with the professional education guidelines established by the Secretary and section 1205.1 of the act (24 P.S. § 12-1205.1). A school entity shall make its professional education plan available for public inspection and comment for a minimum of 28 days prior to approval of the plan by the school entity's governing board and submission of the plan to the Secretary.

As approved by the State Board of Education on November 13, 2014

All additions and deletions are highlighted in **Bold type**

[bracketed items] are deletions

underscored items are additions



COMMONWEALTH OF PENNSYLVANIA
STATE BOARD OF EDUCATION

May 26, 2016

Mr. David Sumner
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17126

Dear Mr. Sumner:

Enclosed is a copy of a final-omitted rulemaking approved by the State Board of Education (22 Pa. Code, Chapters 12, 14, 16 and 49, related to strategic planning, #6-333), for review by the Commission pursuant to the provisions of section 5.1(c) of the Regulatory Review Act. This rulemaking also is being delivered today to the House Education Committee, the Senate Education Committee and the Office of Attorney General.

The State Board of Education will provide the Commission with any assistance you may require to facilitate a thorough review of this final-omitted regulation.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Karen Molchanow".

Karen Molchanow
Executive Director

Enclosures

cc: Thomas Howell, Deputy General Counsel, Governor's Office of General Counsel
Alicia Rizzi, Regulatory Coordinator, Governor's Office of General Counsel
Angela Fitterer, Government Relations Office, Department of Education

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

I.D. NUMBER: 6-333
SUBJECT: STRATEGIC PLANNING
AGENCY: STATE BOARD OF EDUCATION/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

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FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
<i>HOUSE COMMITTEE ON EDUCATION</i>		
5-26-16	<i>Cheryl Wacker</i>	MAJORITY CHAIR <u>Rep. Saylor</u>
5-26-16	<i>April McClendon</i>	MINORITY CHAIR <u>Rep. Roebuck</u>
<i>SENATE COMMITTEE ON EDUCATION</i>		
5/26/16	<i>Judy Merrice</i>	MAJORITY CHAIR <u>Sen. Smucker</u>
5-26	<i>Max Hill</i>	MINORITY CHAIR <u>Sen. Dinniman</u>
5/24/16	<i>K Cooper</i>	<i>INDEPENDENT REGULATORY REVIEW COMMISSION</i>
5/26/16	<i>Jeff Miller</i>	<i>ATTORNEY GENERAL (for Final Omitted only)</i>
_____	_____	<i>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</i>

