

January 15, 2021

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

RE: CHAPTER 49 PROPOSED RULEMAKING



400 North Third Street
P.O. Box 1724
Harrisburg, PA 17105-1724

(717) 255-7000 • (800) 944-PSEA (7732)
Fax: (717) 255-7128 • (717) 255-7124
www.psea.org

Richard W. Askey, *President*
Aaron F. Chapin, *Vice President*
Jeffrey D. Ney, *Treasurer*
James G. Vaughan, *Executive Director*

Dear Ms. Molchanow:

On behalf of the 180,000 members of the Pennsylvania State Education Association, please find enclosed our comments on the Chapter 49 rulemaking proposed by the State Board of Education (Board).

Our members comprise the majority of Pennsylvania's current educator workforce and have a critical stake in the regulatory framework that guides educator preparation and certification in the Commonwealth. We appreciate the stakeholder engagement and research efforts adopted by the Board and the PA Department of Education (Department) in developing this proposed rulemaking, which provides a solid foundation for strengthening Chapter 49.

The review and revision of Chapter 49 every decade affords the Commonwealth key opportunities to advance a comprehensive vision of excellence for the education profession that can address not only the current needs of the profession, but also contemplate the challenges that may lie ahead for current and future educators throughout the following decade. Without question, the fundamental challenge we collectively face is the growing educator shortage crisis.

The gap between the number of qualified educators available compared to the number needed – particularly in key subject areas, geographic regions, and especially in high-poverty schools – has grown significantly in the past decade. Looking ahead, we know the COVID pandemic has exacerbated the factors leading to the existing shortage and will likely magnify the gaps further.

Many more teachers than ever before are leaving the profession prior to retirement, combined with a continually shrinking pipeline of people coming into the profession. This pipeline shortage is even more acute when viewed from the perspective of educational equity. In Pennsylvania, students of color make up over 30 percent of our school population, yet only five percent of our teachers are people of color. Not having a diverse educator workforce has harmful effects for all students, but particularly for our students of color.

The educator shortage crisis directly impacts the ability of the Commonwealth to deliver equitable educational opportunities for all students. A critical factor in addressing the educator shortage are policies and practices that clearly demonstrate educators are valued and respected. The revision of Chapter 49 should include policies and evidence-based supports targeted to address the factors identified by research that influence whether people enter the profession

The PSEA Mission

We are members who promote, protect, and advocate for our schools, students, and professions.

Affiliated with the National Education Association

(recruitment) and whether they remain in the profession through retirement (retention). This is the lens PSEA utilized to develop our enclosed comments.

The importance of a strong and qualified educator workforce is the foundation of an equitable and excellent education for all students. Without it, other essential policy or systems changes for improving education for our students cannot be sustainably and effectively enacted.

Thank you for your careful consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "R. W. Askey". The signature is fluid and cursive, with a prominent initial "R" and a long, sweeping tail.

Richard W. Askey
President

**PSEA COMMENTS ON
CHAPTER 49 PROPOSED RULEMAKING**

SUBCHAPTER A. GENERAL PROVISIONS
Section 49.1 – Section 49.69

§ 49.1. Definitions.

Alternative Program Provider

PSEA supports the addition of the definition of “alternative program provider” in the proposed rulemaking. This provides consistency with statutory authorization for the Secretary to evaluate and approve qualified providers, which may include providers other than institutions of higher education, of postbaccalaureate certification programs.

Approved educator certification program

PSEA supports the Board’s language revising “approved teacher certification program” to “approved educator certification program.” This change acknowledges the breadth of programming offered for preparing educators to support students, not only in the classroom but throughout the entire learning environment. The inclusion of “alternative program providers” within this definition demonstrates that these providers are held to the same standards and expectations as higher education providers.

Certified personnel

PSEA supports the Board’s revision to the name of the existing definition of "professional certified personnel" to "certified personnel" for clarity.

PSEA also continues to recommend that the definition be amended to include the following:

The term also includes individuals employed in professional positions that require a state or nationally-recognized license or other credential and that the Department of Education has determined and announced in a Certification and Staffing Policy Guideline do not require certification under Article XII for public school employment.

This change, coupled with our recommended improvements for sections 49.51-53, ensure that qualified school-based personnel - whose practice areas currently only require licensure - can secure certification. Securing certification is the cornerstone for providing our professionals with specific expertise and training supporting the needs of students with the respect and recognition they deserve.

Culturally relevant and sustaining education (CR-SE)

PSEA supports the addition of the term “culturally relevant and sustaining education,” This term and the concepts it contains provide a solid foundation for improving program standards to reflect the broader set of skills educators need to support the academic, social, and emotional development of all students.

The definition needs to be clear about what is encompassed within the term to ensure standards are designed and implemented with consistency and the highest quality. **PSEA therefore recommends strengthening the Board’s proposed definition for culturally relevant and sustaining education (CR-SE) by incorporating language developed through a comprehensive stakeholder process in New York. PSEA’s recommended revisions to the Board’s proposed definition reads as follows:**

Culturally relevant and sustaining education (CR-SE)— Education grounded in a cultural view of learning and human development in which multiple expressions of diversity (e.g., race, social class, gender, language, sexual orientation, nationality, religion, ability) are recognized and regarded as assets for teaching and learning¹. Education that ensures equity for all students and seeks to eliminate systemic institutional racial and cultural barriers that inhibit the success of all students in this Commonwealth. —~~particularly those who have been historically underrepresented. Culturally Relevant and Sustaining Education encompasses skills for educators including, but not limited to, approaches to mental wellness, trauma-informed approaches to instruction, technological and virtual engagement, cultural awareness and any factors that inhibit equitable access for all students in this Commonwealth.~~

In addition, utilizing the language developed through the comprehensive stakeholder process in New York ensures the definition applies to all students without the need to reference “historically underrepresented.” Removing the reference to the term in this definition provides clarity that Chapter 49 remains focused on removing barriers that exist for those that have been historically underrepresented in the education profession, and not be conflated with barriers that are present for equitable learning opportunities for historically underrepresented k-12 students, which may be similar but require a different approach to address.

Historically underrepresented groups

PSEA supports the Board’s recommendation to add a definition of "historically underrepresented groups" to provide clarity and context for reporting requirements for under § 49.14(4)(v) (relating to approval of institutions) but recommends removing the second line of the definition, to read as follows:

Historically underrepresented groups—Groups that are documented to have been represented across time in the educator population in proportions below their representation in the general population. ~~These include, but are not limited to, people of color, the economically disadvantaged and first-generation college-goers.~~

Given the term’s significant impact on data collection and reporting for education preparation programs, PSEA recommends one broad definition that refers to the disparity between the general population and educator candidate populations. We are concerned that a list of analytic groups may become prescriptive, rather than a starting point.

¹ New York State Education Department Expert Committee, see NYSED, Culturally Responsive-Sustaining Education Framework, 10 (2018). <http://www.nysed.gov/common/nysed/files/programs/crs/culturally-responsive-sustaining-education-framework.pdf>

Induction, Induction Plans, and Mentoring

The current definitions of induction and induction plans were not revised as part of this proposed rulemaking. The definitions read:

Induction—A process by which a variety of professional support services are provided to newly employed teachers and educational specialists under the guidance of professional personnel to facilitate entry into the education profession

Induction plan—A description of the induction process developed and submitted by the school entity to the Department for approval which describes how a teacher or educational specialist will be introduced to the teaching profession under this chapter.

PSEA recommended during the development process of the rulemaking that these definitions be updated to provide more clarity regarding terms mentioned within, such as “professional support services.” In addition, the definition should include concrete examples of the system of supports that are expected to be put in place – such as ongoing professional development, curriculum planning, mentoring and orientation.

PSEA also recommended that the Board add a definition of “mentoring” in support of a more comprehensive approach to high-quality induction and mentoring for new teachers. Mentoring is one-on-one support and feedback provided by an experienced teacher to a new teacher to help develop the new teacher’s skills and practice. The reference in the language to a “mentor” relationship in Section 49.16 is helpful but does not replace the need to define the term. By defining mentoring, the Board would be clarifying what is expected of high-quality induction as school districts develop their plans.

PSEA recommends the Board revise the definitions of induction and induction plans and add a definition of mentoring to help strengthen the foundation for high-quality early educator supports.

Subject Area

PSEA supports the Board’s addition of a definition of “subject area” to make clear that the references to the term in other parts of Chapter 49 relates to specific areas of instructional content and to distinguish it from grade spans.

§ 49.13. Policies.

PSEA supports the Board’s proposed requirement in paragraph (4)(ii) that instruction in professional ethics, aligned with standards for competencies developed by the Department, be integrated throughout educator preparation programs and included as part of the Department’s evaluation and approval process for providers, helping ensure future educators will be grounded in this knowledge. **Having a strong foundation in culturally relevant and sustaining education is just as vital. PSEA therefore recommends that CR-SE be included in paragraph (4)(ii) as an explicit requirement for educator preparation as well.**

PSEA also urges the Board to update this section requiring the **Department to collect, analyze, and publicly report disaggregated data relating to programs offered by institutions and**

alternative program providers for our current and future educator workforce. Only five states have higher student/teacher racial disproportionality rates than Pennsylvania. This lack of diversity can only be effectively addressed when stakeholders have quality data that provides valuable insight for where improvements may need to be made.

§ 49.14. Approval of institutions and alternative program providers.

PSEA supports the revisions to (4)(i) that require educator preparation program providers – including alternative program providers – to explicitly incorporate competencies, coursework, and field experiences in professional ethics, cognitive competencies, structured literacy, and CR-SE. **We recommend the Board include language requiring the Department to utilize a transparent, evidence-based, and stakeholder-driven process to identify the competencies and associated standards.**

PSEA also supports the revisions in this section defining requirements for supervising teachers who participate in the student teaching process and the establishment of a minimum number of pre-student teaching field experience hours and criteria for evaluating candidate success in pre-student teaching. **We strongly recommend the Board require the Department to utilize a transparent, evidence-based and stakeholder-driven process for determining the requirements for supervising teachers as well as criteria for evaluating success in pre-student teaching.**

PSEA supports the language in (4)(v) establishing annual reporting requirements for educator preparation programs on students admitted, retained, and graduated, including students from historically underrepresented groups. PSEA also recommends that this section be revised to require institutions and alternative program providers to **annually report on the percentage of candidates applying for educator certification who attain passing scores on the certification assessments, including data disaggregated for historically underrepresented groups where possible.** Final changes to Chapter 49 should also ensure these reports are posted in a publicly accessible manner.

PSEA supports the proposed amendments to paragraph (4)(vii) to better clarify the institutional approval process. Given the expansion in the regulations to reflect statutory authority of the Secretary to approve alternative program providers, **PSEA recommends this process be strengthened by including criteria of what constitutes a high-quality preparation program.**

§ 49.16. Approval of induction plans.

Supporting early educators navigating their transition from teacher preparation program to full responsibility in their classroom is critical. **PSEA appreciates the Board’s recognition of this and supports its proposed revisions establishing a two-year induction experience. We also support the requirement that induction plan guidelines include professional ethics, cognitive competencies, and culturally relevant and sustaining education.**

This section requires the Department to establish guidelines for, and review approval for, induction plans submitted by school entities. But there is no further guidance or requirements for the process to be utilized by the Department for these essential activities. **PSEA strongly recommends language be added requiring the Department to establish a process for**

stakeholder input on the guidelines and criteria for the approval process. In addition, the Department should be required to review the guidelines and criteria for approval at regular intervals to ensure they continue to reflect best practices, techniques and tools for teaching and learning strategies.

§ 49.17. Continuing professional education.

Ensuring high-quality professional learning and a collaborative work environment is also an important factor impacting whether an educator will remain in the profession. It is critical, therefore, that the Board adopt a broad vision of meaningful professional learning for educators for the next decade.

PSEA supports the changes reflected in the proposed rulemaking ensuring that plans include training in structured literacy, professional ethics, and culturally relevant and sustaining education. In addition, **PSEA strongly recommends the Board require local professional learning plans to include training in the essential practices needed for educators to work collaboratively with colleagues, especially colleagues from diverse backgrounds.**

The guidance promulgated by the Secretary should reflect best practices and the latest research for effective teaching and supports for students. **PSEA recommends the Board require the state guidelines and approval criteria for employer-provided continuing education include evidence-based professional learning standards focused on developing appropriate knowledge, skills, and professional practice for educators.**

Section 1205.1 of the School Code delineates a stakeholder process that must be utilized at the local level for the development of school district plans. **PSEA strongly recommends that the Department – in developing the statewide guidance and tools needed for professional learning plans to be implemented in schools – be held to a similar standard of stakeholder engagement.** PSEA recommends language be added to this section requiring the Department to use a transparent stakeholder process to develop and continually improve guidance and evidence-based strategies for implementing high-quality professional learning.

We recommend the process for developing professional learning plans at the local level be strengthened by **requiring the Secretary to regularly review the state guidelines every three years for alignment with the local review process – utilizing a clearly articulated process including ongoing engagement with stakeholders from each segment of the educator continuum.**

In section 49.17 (2), “classroom observations of other professional employees and other job embedded professional learning experiences” should be added to the list of professional development activities included in local plans. There is a large corpus of research regarding the efficacy of professional development that occurs when teachers observe each other in the classroom and apply learning to authentic classroom experiences. According to the National Staff Development Council (now Learning Forward) and others who study the effectiveness of professional development models, classroom observations and other job-embedded learning strategies are important components to the improvement of teaching and learning.

PSEA supports the Board’s changes in (b) and (c) requiring school and district leaders to complete courses developed by the Department specifically for competencies in school systems and school leadership.

§ 49.18. Assessment.

Section 1207.3 of the school code requires the completion and satisfactory achievement of the basic skills assessment for entry into an educator preparation program. It is the Board and the Department, however, that have the authority to identify and approve assessments and the procedures for measuring what comprises “satisfactory achievement” for required skills for educators.

In Section 49.1 the Board defines satisfactory achievement as *“An acceptable level of performance as determined by the Secretary in consultation with the Board on the Department-prescribed assessments required in this chapter.”*

The assessments required throughout the educator certification process also are defined:

- Basic skills: *“ability to communicate orally and in writing and to demonstrate proficiency in fundamental computational skills”*
- General knowledge: *“knowledge in the fields of literature, mathematics, the sciences and social studies”*
- Professional knowledge and practice: *“knowledge of educational theory, principles of human growth and development, educational psychology and other subjects directly related to educational practice and their application/demonstration in school settings”*
- Subject matter: *“knowledge of an academic field or discipline”*

In its 2018 report prepared for the Department on Chapter 49², the Learning Policy Institute recommended that there be a comprehensive review of educator assessments stating: “Pennsylvania could take the opportunity to reconsider the role of current assessment requirements in supporting the progress of teacher candidates and ensuring that newly licensed teachers are truly learner-ready. The state could also review assessment requirements that may act as unnecessary barriers to the profession for many qualified candidates of color.”

The need to comprehensively evaluate the role of assessments within the continuum of educator preparation has only grown as a result of the pandemic. In his recent order waiving the basic skills assessment in accordance with Act 136 of 2020, the Secretary noted that this pause in assessments due to the pandemic provides an opportunity to “rigorously evaluate” the impact of the basic skills assessment and the efficacy of all pre-licensure assessments.

PSEA strongly recommends, therefore, that the Board require the Department to utilize a transparent, evidence-based, stakeholder-driven, and continual process to evaluate the methods used for assessing the skills and knowledge of our educators across the professional continuum, in a manner that reflects an evolving public education landscape.

² Recommendation #4

<https://www.stateboard.education.pa.gov/Documents/About%20the%20Board/Hearings%20and%20Roundtables/LP1%20Report%20Examining%20Educator%20Cert%20in%20PA.pdf>

§ 49.31. Criteria for eligibility.

PSEA recommends the deletion of the phrase “fully qualified” in this section. The phrase “fully qualified” is redundant. A properly certificated applicant should be considered fully qualified because the state-issued certificate is an attestation of having met a defined measure of quality.

§ 49.51 – § 49.53. Changes in Certification.

PSEA urges the Board to require the Department to establish a clearly defined and transparent process for receiving, reviewing, and approving requests for new, modified, or discontinued certification subject areas.

Professional employees that support the needs of the whole child in our public schools deserve recognition and respect, which begins with certification. Ensuring an objective, timely, and transparent process for evaluating certification subject and practice areas is critical to providing alignment between the current roles and demands of professionals working within our schools and how they are recognized at the state and local level.

The process in the regulations for the Board and the Department to receive requests for a new “type/category of certificate,” could certainly be strengthened to improve timelines, transparency, and objective criteria for determining the Department’s evaluation of the request. But the most glaring issue to be addressed is the fact that there is no process delineated in the regulations for the creation of a certificate corresponding to the professional services provided within a specific subject or practice area.

This results in a hodgepodge of requests for a new certification area that may never be approved, but also not denied, with no concrete guidance for how to proceed. It also means that when the department does make changes by adding a certification subject or practice area, there is no concrete process for how that was developed or determined.

A certificate assures that licensed employees have not only the requisite content and practice knowledge, but also the requisite knowledge of student needs, school system structures, policies, and pertinent laws. Perhaps most importantly, it provides clear recognition of their valuable contribution as qualified professionals within the school community. Simply having a Certification and Staffing Policy and Guideline issued by the Department recognizing that a professional with licensure *can* be employed in a school district is *not* certification.

PSEA strongly recommends that in addition to changes outlining a transparent and objective process for review and approval of new certificates, the Board should also require a clear and transparent process for reviewing and updating the Department’s “*Professional Personnel Certification and Staffing Policies and Guidelines*”, or CSPGs. CSPGs are the basis for ensuring compliance with proper certification and staffing practices in our schools. Yet there is no clear process for their development that would equate to other essential policy making – no timeline for review; no public comment period; and no required stakeholder engagement. Lack of a clear process has led to unnecessary disruptions and unintended outcomes, sometimes in the middle of a school year, related to questions about which certificated educators are able to teach

specific courses. A clear and transparent process will help reduce disruption and ensure that decisions about changes are made with appropriate input and engagement.

Section 49.63. Applicants educated in foreign countries.

PSEA recommends revising section 49.63 to encourage recruitment of international educators, make certification more accessible, and add a new type of certificate that would allow for non-citizen educators to continue to hold certification beyond an Instructional I. Currently non-citizen teachers are ineligible for permanent certification (Level II) unless they are certified in world languages. This should be addressed to allow foreign-national educators to secure certification and remain in the profession.

Section 49.65. Out-of-State and Nationally-certified applicants.

PSEA supports the revisions in this section which will make inter-state reciprocity less restrictive to qualified out-of-state educators, including educational specialists and administrators, while still maintaining high standards for professional quality and preparation requirements. We recommend strengthening these revisions by including the following requirements for candidates who hold a valid and current professional certificate issued by another state:

- Demonstrated mastery of the subject area to be taught and mastery of professional knowledge needed for classroom effectiveness,
- For a candidate who has taught on the out-of-state certificate, presentation to the department evidence of satisfactory professional educator experience for the candidate's two most recent years of classroom teaching.
- Satisfaction of requirements for the certificate, including satisfaction of testing requirements demonstrating subject matter competency in the applicable area of Pennsylvania certification, including passage of equivalent content tests from other states as approved and published by the Board.
- Completion of an educator preparation program approved by another state whose requirements are comparable to those in Pennsylvania. The out-of-state program must have included a defined course of study and field experience that required learning experiences in school, clinical, or laboratory settings. These learning experiences must have been related to specific program outcomes and designed to integrate educational theory, knowledge, and skills in actual practice under the direction of a qualified supervisor.

**Subchapter B. CERTIFICATION OF GRADUATES
FROM COMMONWEALTH INSTITUTIONS**
Section 49.71 – Section 49.122

Section 49.84. Collegiate credit acceptable for conversion

Under current regulations attainment of an Instructional II certificate requires an educator to attain 24 credits from a state-approved baccalaureate or graduate degree granting institution. The credits must be attained after conferral of a bachelor's degree. As required in Section 49.83, the Department has restricted 6 of the 24 credits to meet specific course credit requirements.

The Board proposes to change subsection (a) of this section to permit credits from associate degree-granting institutions to apply to the 24-credit requirement to attain a permanent certificate. **PSEA opposes this change.**

Conferral of an Instructional II certificate is a permanent designation that signifies a high level of specialized training and practice to warrant permanent certification status. The 24-credit hour requirement can be an important part of building professionalism and advanced levels of knowledge and practice among educators. PSEA's consistent position is to uphold rigorous training and certification standards to ensure that students receive specialized, high-quality services from certified personnel. Before expanding the universe of credit providers, PSEA encourages the Board to more clearly define the purpose and intent of the 24 credit hour requirement to ensure that the additional education required to earn a permanent certificate supports high-levels of professionalism and training in the field.

Section 49.111 Criteria for eligibility.

Under current regulations in order for an educational professional to obtain a supervisory certificate, she must have five years of satisfactory professional certified service in the school program area for which the comprehensive certificate is sought; completed an approved graduate program focused on supervisory knowledge and the endorsement area of the certificate; and satisfactorily achieved assessments required under section 49.18(a). It has historically been PSEA's consistent position to encourage and uphold rigorous training and certification standards such as these to be certain students receive the best possible services.

The Board proposes to change subsection (e) to permit school psychologists who have completed five years of "satisfactory certified experience as a school psychologist" to be issued a Special Education Supervisory Certificate. This change eliminates, for one group of certificated employees, the key requirements for foundational knowledge needed to supervise special education services. **PSEA opposes this change.**

PSEA respects and values the specialized expertise of our certified school psychologists and the important role they have in providing special education services, specifically their training in developmental, social, and educational psychology and therapeutic interventions to address behavioral and social deficits. Yet while the work they do supports student success in the classroom, little of the work of the certified school psychologist is done in the typical setting of an education classroom, and programs designed for school psychologists do not require pedagogical or teacher training as a prerequisite for certification.

Supervisors serve as the liaison between school administration and other certified professional staff with significant impacts on classroom teaching, designing and differentiating instruction, and various personnel matters. Special education supervisors, specifically, are also responsible for selecting evidence-based instructional materials and practice and providing ongoing support for delivering instruction with fidelity as defined within IDEA.

PSEA is very concerned that this drastic change to lower the qualifications of a special education supervisor will have serious implications for the equity and quality of special education services across local education agencies. Before being placed in a role to oversee and evaluate a team of other certified professionals - including special education teachers, occupational therapists, speech pathologists, physical therapists, and more - **it is essential that school psychologists be held to the same standards as other prof**