

ALVIN C. BUSH, CHAIRMAN  
DAVID M. BARASCH, ESQ.  
ARTHUR COCCODRILLI  
DAVID J. DEVRIES, ESQ.  
JOHN F. MIZNER, ESQ.  
KIM KAUFMAN, EXECUTIVE DIRECTOR  
MARY S. WYATTE, CHIEF COUNSEL  
LESLIE A. LEWIS JOHNSON, DEPUTY 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

August 30, 2006

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

Re: Regulation #6-302 (IRRC #2548)  
State Board of Education  
Foreign Corporation Standards

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](http://www.irrc.state.pa.us). If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman  
Executive Director  
kac

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

# Comments of the Independent Regulatory Review Commission

on

## State Board of Education Regulation #6-302 (IRRC #2548)

### Foreign Corporation Standards

August 30, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the July 1, 2006 *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. General. – Reasonableness; Clarity.**

The Disabilities Law Project asserts that Chapter 36 should provide students with disabilities the same level of protection as Chapter 31. The Board should explain how students with disabilities will be protected under this Chapter.

Also, there are numerous places in the proposed regulation that use the term “Commonwealth enterprise” or “Commonwealth endeavor.” These terms are not defined. The Board has indicated that these terms are different than the defined term “Education enterprise.” The Board should explain the difference between a “Commonwealth enterprise” and a “Commonwealth endeavor” and define these terms. If there is no difference in meaning, the Board should choose either “Commonwealth enterprise” or “Commonwealth endeavor,” define it and use it consistently throughout this regulation.

#### **2. Section 36.2. Corporate Commitment. – Clarity.**

This section requires that the operations of a foreign corporation in the Commonwealth “provide adequate support to ensure compliance with the requirements of an accrediting body recognized by the United States Department of Education and acceptable to the Pennsylvania Department of Education....” The phrase “provide adequate support to” is vague and should be deleted.

Also, the Board has indicated that the criteria for determining if an accrediting body is acceptable to the Department is found in Chapter 31. The final-form regulation should include a cross-reference to these criteria. Also, does the Department maintain a list of acceptable accrediting bodies on its website?

#### **3. Section 36.4. Curricula. – Clarity.**

##### *Subsection (d)*

This subsection requires evaluations to be conducted “periodically, and at least once every 5 years.” The term “periodically” is not needed and should be deleted.

Also, this subsection includes the phrase “for compliance with Commonwealth approvals and regulations.” The Board has stated that the Department is responsible for approving educational entities and that the criteria for these approvals are found in Chapters 31, 36 and 42. The final-form regulation should include a cross-reference to the appropriate criteria for “Commonwealth approvals.”

**4. Section 36.8. Evaluation and approval. – Reasonableness; Clarity.**

Subsection (g) sets forth the time period in which the decision of the Secretary will be rendered “if no protest or objection has been timely made to the application.”

First, in what time period must an objection be received for it to be considered “timely”?

Second, this subsection addresses only what occurs if no objections are raised. However, no procedures are established for instances where objections are raised to an institution’s application to operate in Pennsylvania. The Board should also include these procedures in the final-form regulation.

State Board of Education #6-302 (#2548)  
Foreign Corporation Standards

James Buckheit, Executive Director

Josh Schneider JS

Date: 4-30-06