

RULES AND REGULATIONS

Title 7—AGRICULTURE

MILK MARKETING BOARD

[7 PA. CODE CHS. 143 and 149]

Transactions Between Dealers and Producers; Uniform System of Accounts

The Milk Marketing Board amends §§ 143.12, 143.14 and 149.24 (relating to terms of payment; monthly statement to producers; and separating expenditures for raw product into controlled and noncontrolled amounts) to read as set forth in Annex A.

On April 2, 1999, the Agricultural Marketing Service, United States Department of Agriculture (USDA) published in the *Federal Register* its final decision on Federal milk marketing order reform (referred to hereinafter as final decision). See 64 F.R. 16026 et seq. This document was accompanied by substantial revisions to USDA regulations found in 7 CFR Parts 1000—1199, which govern milk orders. Upon approval of the new orders by the required number of producers in each Federal marketing area, the USDA will publish in the *Federal Register* a final order implementing the orders. Congress has directed that implementation occur by October 1, 1999.

On June 2 and July 7, 1999, the Board conducted a hearing to receive evidence concerning the impact of Federal order reform on the Board's official general orders governing producer and resale pricing in this Commonwealth. The Board order based on the hearing, Official General Order (OGO) A-903, was issued on August 3, 1999; the effective date of the order is September 1, 1999, inasmuch as prices for producer milk regulated under the new Federal orders are expected to be announced on September 23. (Should Congress delay implementation of the final decision beyond October 1, OGO A-903 provides for an alternative effective date of 30 days before the new implementation date.)

The June 2 and July 7, 1999, hearings also addressed the need to harmonize certain regulatory provisions with Federal practice under the final decision. The amendments to §§ 143.12, 143.14 and 149.24 achieve harmony with Federal requirements governing payments to producers and classification of milk (see 64 F.R. 16173—74 and 16229). Existing § 143.12 requires that advance payments to producers, whether made monthly or weekly, be at least the applicable Class II price for the previous month. The final decision mandates that these payments be at least the lowest announced class price. The final decision also changes the timing for advance and final payments from, respectively, the last day of the month to the 26th day and the 18th day of the month to the 17th day. The amendments to §§ 143.12 and 143.14 reflect these changes. The list in § 149.24 of categories of milk not price-controlled by the Board is amended to include the new Federal Class IV classification.

An additional amendment, unrelated to Federal order reform, is being made to § 143.12(b). Because no milk dealers pay on a weekly basis, the Board does not annually promulgate a weekly payment schedule. Reference to that schedule has therefore been deleted.

Public notice of intention to amend the regulations under the procedures in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and

1202) (CDL) has been omitted under section 204(3) of the CDL (45 P. S. § 1204) because the Board finds that these procedures are impracticable and unnecessary under the circumstances. Because the new Federal orders are due to be implemented on October 1, it would be impracticable to submit the amendments to the procedures associated with proposed rulemaking. Amended § 143.12 requires that producers receive interim payments by the 26th day of each month. That requirement would govern October producer payments. Accordingly the amendment must be effective before October 26, 1999. Although Federal regulations do not govern all milk produced in this Commonwealth, maintenance of uniform timing and minimum payment provisions will ensure that Pennsylvania producers continue to receive payment for both Federally regulated and State-regulated milk on a stable and predictable basis.

Proposed rulemaking is also unnecessary under the circumstances. Milk dealer and producer organizations received notice of and participated in the amendatory process. As noted, testimony at the June 2 and July 7, 1999, hearings addressed the need to amend the regulations. Thereafter, the Board provided for comment by the milk industry during its sunshine meeting on August 3, 1999, and also solicited written comments (none were received). No objections to the amendments have been raised.

Statutory Authority

Section 608 of the Milk Marketing Law (31 P. S. § 700j-608), authorizes the Board to establish the basis on which payment for milk is to be made, the timing of payment, and the contents of the written statement that must accompany payment. Section 5 of the Milk Producers' Security Act (31 P. S. § 626.5), empowers the Board to establish the time period in which milk dealers must make final payments to producers. Section 704 of the Milk Marketing Law (31 P. S. § 700j-704), requires the Board to establish a uniform system of accounts.

Fiscal Impact and Paperwork Requirements

These amendments will have no fiscal impact on the Commonwealth or its political subdivisions, nor will they create new paperwork requirements for these entities. The addition of a Class IV category in § 149.24 will create a modest change in reporting requirements for milk dealers.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on August 9, 1999, a copy of these amendments was submitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Committees on Agriculture and Rural Affairs. At the same time, the amendments were submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(d) and (e) of the Regulatory Review Act, these final-omitted regulations were deemed approved by the Senate and House Committees on Agriculture and Rural Affairs on August 30, 1999, and were approved by IRRC on September 9, 1999.

Additional Information

Persons may submit inquiries about these amendments to Chief Counsel, Pennsylvania Milk Marketing Board, 2301 N. Cameron Street, Harrisburg, PA 17110, (717) 787-4194.

Findings

The Board finds that:

(1) Public notice of intention to amend the final-omitted regulations as adopted by this order under the procedures specified in sections 201 and 202 of the CDL has been omitted under section 204(3) of the CDL because the Board has, for good cause, found that the procedures in sections 201 and 202 are impracticable and unnecessary under the circumstances inasmuch as the amendments harmonize certain State practices with Federal practices due to be implemented on October 1, 1999, and inasmuch as affected persons had the opportunity to participate in the amendatory process and had no objections to the amendments set out in Annex A.

(2) Amending the Board's regulations in the manner provided in this order is necessary and appropriate for the administration of the Board's authorizing statutes.

Order

The Board, acting under its authorizing statutes, orders that:

(a) The Board's regulations, 7 Pa. Code Chapters 143 and 149, are amended by amending §§ 143.12, 143.14 and 149.24 to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Chairperson 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 shall be effective on October 1, 1999.

BEVERLY R. MINOR,
Chairperson

(Editor's Note: For the text of the Order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 5033 (September 25, 1999).)

Fiscal Note: 47-6. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 7. AGRICULTURE

PART VI. MILK MARKETING BOARD

CHAPTER 143. TRANSACTIONS BETWEEN DEALERS AND PRODUCERS

PAYMENT

§ 143.12. Terms of payment.

(a) Producers shall be paid not later than the 26th day of each month and the 17th day of the following month, as follows:

(1) Payment that covers the approximate value of milk or cream purchased from the first to the 15th of each month shall be made not later than the 26th day of each month. This payment need not be accompanied by an itemized statement. This payment shall be at least the lowest announced class price for the previous month for the number of pounds purchased or received during the first 15 days of the month.

(2) Final settlement for all milk and cream purchased during any month shall be made not later than the 17th day of the following month. The final settlement shall include any balances due for the first 15-day period and shall be accompanied by a statement to each producer setting forth the information required under § 143.14 (relating to monthly statement to producers).

(b) This section may not be interpreted as prohibiting a dealer from paying its producers on a weekly basis; however, when a dealer pays on this basis, it shall also provide its producers with a monthly statement as prescribed by § 143.14. All advance payments on the weekly basis shall be at least at the lowest announced class price for the previous month for the number of pounds purchased or received during the week in question. The final settlement shall include any balances due for the initial weeks during the month and shall be accompanied by a statement to each producer setting forth the information required under § 143.14.

§ 143.14. Monthly statement to producers.

Dealers purchasing milk or cream from producers shall furnish producers with statements containing each of the following items, by not later than the 17th day of each month:

- (1) The name and address of dealer issuing statement.
- (2) The date of statement.
- (3) The period for which statement is rendered.
- (4) The name of producer for whom statement is intended.
- (5) The butterfat test for the first half of the month, or the average of fresh samples, with a minimum of two taken, evenly spaced, the first half of the month.
- (6) The butterfat test for the last half of the month, or the average of fresh samples, with a minimum of two taken, evenly spaced, in the last half of the month.
- (7) The average butterfat test for the month.
- (8) The percentage of milk utilized in each classification.
- (9) The rate paid per hundredweight for 3.5% milk for each classification as established by applicable Official General Order, which may be obtained from the Milk Marketing Board, 2301 N. Cameron Street, Harrisburg, Pennsylvania 17120.
- (10) Three and one-half percent blend rate per hundredweight and butterfat differential per 0.1%.
- (11) The blend rate paid at the producer's average test.
- (12) The total pounds of milk purchased from producer.
- (13) The gross amount paid for milk.
- (14) Additional amounts paid as premiums, bonuses or similar payments.
- (15) The gross amount due after addition of premiums, bonuses or similar payment.
- (16) Itemization of advance payments and authorized deductions.
- (17) The total deductions.
- (18) The net amount due and paid.

**CHAPTER 149. UNIFORM SYSTEM OF ACCOUNTS
SPECIFIC INSTRUCTIONS**

§ 149.24. Separating expenditures for raw product into controlled and noncontrolled amounts.

(a) From the milk dealer's monthly report, the product and butterfat pounds sold or utilized shall be determined for each producer payment category, as follows:

- (1) Controlled, Class I
- (2) Controlled, Class II
- (3) Noncontrolled, Class I
- (4) Noncontrolled, Class II
- (5) Noncontrolled, Class III
- (6) Noncontrolled, Class IV

(b) The value of each category, using the applicable Federal or State prices adjusted for zone and butterfat differentials, shall be determined.

(c) The pounds and dollar values for controlled and noncontrolled shall be totalled.

(d) The difference between the total dollars accounted for in subsection (c) and the total paid for the milk, including payments to settlement and assessment funds shall be determined. This difference shall consist of market administration fees, shrinkage, plant loss and premiums.

(e) The dollar difference specified in subsection (d) shall be divided between controlled and noncontrolled, in the same proportion as the controlled and noncontrolled pounds totalled in subsection (c).

(f) Add or subtract the differences separated in subsection (e) to the two dollar figures computed in subsection (c). The total of the controlled and noncontrolled dollar figures shall then equal the total payment for milk for the month.

(g) If bulk product is purchased from other sources in addition to producers, the payments to both shall be totalled and divided between controlled and noncontrolled, using the steps set forth in subsections (a)—(f). The amounts of the total controlled and total noncontrolled shall then be divided between purchases and purchases from others, in the same proportion as the totals paid to producers and to others. The resultant four figures shall next be charged to the four accounts specified in § 149.42(c)(2)—(4) (relating to income and cost of sales accounts), with a credit to "Total Purchases of Milk," specified in § 149.42(c)(1).

(h) At the end of an accounting period, either calendar or as specified by the Board for cross-section purposes, the summarization of the monthly total figures may not equal the figure from the adjusted trial balance because of period beginning and ending inventory or other adjustments. This difference, plus or minus, shall be divided between controlled and noncontrolled in the same proportion as the total controlled and noncontrolled pounds sold in the entire period.

(i) A dealer operating a partially Federally regulated plant paying marketing administration fees and payments to settlement funds for fluid milk products delivered to a Federal order area should assign all such payments to controlled cost of sales except for deliveries to locations on which the Board does not establish prices, such as out-of-State locations and Federally owned land.

(j) If a dealer that produces both fluid and manufactured products purchases items, such as cream and powder that can be readily identified as raw product for the manufactured items, the cost of these items may be excluded from the computations specified in subsections (a)—(h) and assigned directly to noncontrolled cost of sales accounts.

[Pa.B. Doc. No. 99-1625. Filed for public inspection September 24, 1999, 9:00 a.m.]

Title 22—EDUCATION

STATE BOARD OF EDUCATION

[22 PA. CODE CH. 49]

Certification of Professional Personnel

The State Board of Education (Board) amends Chapter 49 (relating to certification of professional personnel) which relates to certification of professional personnel, to read as set forth at Annex A, under authority of Article XII and sections 1109, 1141, 2603-B and 2604-B of the Public School Code of 1949 (24 P. S. §§ 12-1201—12-1268, 11-1109, 11-1141, 26-2603-B and 26-2604-B).

Notice of proposed rulemaking was published at 27 Pa.B. 2011 (April 19, 1997) with an invitation to submit written comments within 30 days.

Purpose

Chapter 49 sets forth the basic rules for teacher preparation, certification and continuing professional development in this Commonwealth. These final-form regulations are designed to strengthen teacher education programs and provide support to novice teachers; to expand the assessment program to include performance and to provide for additional assessments; and, to provide a structure of professional education and certification which supports the Commonwealth's academic standards. These changes to Chapter 49 are the result of the Board's decennial review of the chapter as required by § 49.51 (relating to review of certification).

Response to Public Comment

Alternate Entry.

Considerable public comment was received on the proposal to permit equivalent education and experience to take the place of formal teacher preparation and recommendation for certification. A new section, § 49.13(b)(12) (relating to policies), was proposed which would have delegated to the Secretary of Education the responsibility to establish equivalencies of education and experience for all certificate areas. Language permitting equivalencies was found in the section establishing requirements for each of the broad areas of certification on proposed rulemaking. Most public comment was in opposition to equivalencies being established because it: (a) undermines the profession of teaching; (b) is contradictory to other areas of revision seeking to strengthen criteria for entry to the profession; and (c) is not justified by need due to a current and projected surplus of fully certified teachers. In addition, public commentators, legislators and the Independent Regulatory Review Commission (IRRC) staff questioned whether equivalencies were supportable under current statute. As a result, § 49.13(b)(12) has been removed on final-form along with all references to equivalencies under each major category of certificate. Several commentators, legislators and IRRC staff also suggested

that language on experimental programs (§ 49.15 (relating to approval of experimental programs)), initially proposed for deletion be restored to enable teacher preparing institutions to design programs targeted to individuals not initially preparing for education professions. Thus, in conjunction with the removal of proposed § 49.13(b)(12), the Board has restored § 49.15 on final-form.

Temporary Waivers:

Proposed § 49.13(b)(13) would have permitted the Secretary, upon petition by a local board of school directors, to waive requirements of certification temporarily. This provision was designed to allow schools a greater degree of flexibility in staffing when making curricula changes. Public comment on this provision was generally negative. Commentators: (a) warned that this provision would enable local boards to unnecessarily circumvent certification statute and regulation; (b) expressed the opinion that this provision is unwarranted because current provisions of regulation providing flexibility are rarely used; and (c) believed that waivers would undermine the profession. School administrators and school board members commented in favor of flexibility. Commentators, legislators and IIRC staff questioned the legal basis for waivers. As a result of comment, § 49.13(b)(13) has been removed on final-form.

Professional Development:

As proposed, requirements for professional development applied to all professional educators regardless of the date of receipt of certificate. A number of comments received were supportive of this provision while others questioned the authority of the Board to establish this requirement. Legislators questioned the advisability of the Board establishing a professional development requirement when legislative proposals to do the same were under active consideration in the General Assembly. As such, proposed revisions have been eliminated and existing language restored in § 49.17 (relating to continuing professional development) on final-form. Related proposed revisions in §§ 49.83, 49.103, 49.111, 49.143 and 49.163 have been eliminated.

Supervisory Certificates:

Revision to language on supervisory certificates was proposed to enable more generic supervisory certificates. Specifically, under § 49.111(a)(2) language which restricted supervisory certificates to single, specified areas was deleted in order to permit the Department to issue certificates in more general program areas. This proposed revision was based on the understanding of the Board that: (1) many of the skills of supervision were generic; (2) only larger school districts could afford subject specific supervisors, leaving smaller districts to rely instead on generally-trained principals to supervise teachers and curricula; and (3) supervisory certificates for program clusters would be within the reach of a greater number of school districts and improve instructional leadership. A majority of public commentators and the Professional Standards and Practices Commission supported specific single program supervisory certificates. Administrators favored more generic supervisory certificates. The Board continues to believe that supervisory certificates designed for clusters of subject areas are more feasible. As proposed, the language would continue to permit the Department to offer supervisory certificates in such areas as Reading, Special Education, Curriculum and Instruction and the like, but would also permit the Department to design supervisory certificates for clusters such as math-

ematics and science or English and language arts. As a result, the Board affirms its proposed revisions.

Additional and compelling public comment was received on the unique nature of vocational education and specific skills necessary for an individual to succeed supervising teachers and curricula in a vocational setting. As a result, the Board restored the provisions under § 49.161 (relating to Supervisor of Vocational Education) for Vocational Education Supervisor.

Assuring Parallel Requirements for Certificates:

Public comment was received that it was not clear that certificates issued to all educators provided similar requirements for continuing professional development, for successful completion of assessments, and for helping students to achieve the requirements of Chapter 4 (relating to academic standards and assessment). The Board has added language on final-form in several certificate areas to ensure that these requirements are clearly parallel.

Public commentators and legislators questioned proposed language requiring that all professional development activities for an educator be in the area of certification and assignment was too restrictive. As a result, the restriction has been removed permitting greater flexibility for professional development for the educator and the employing entity.

Program and Certificate Standards:

Public commentators, legislators and IIRC staff questioned whether the Board has the authority to delegate the development of general program standards and specific standards for certificates to the Department (for example, §§ 49.14(4); 49.81(b); 49.101; 49.111(a)(5)). To date, the Department has developed standards in consultation with the Board, where they have been presented and discussed in regular public meetings, and formally approved by the Board. While not meeting the current requirements of the regulatory review process, substantial opportunities were provided for public and legislative involvement. Revisions to final-form regulations seek to clarify the Board's responsibility to approve standards for certificates while maintaining the Department's ability to develop procedures and to issue interpretive policies and directives necessary to administer the regulation. The Board does not believe that it is practical and efficient for the Board to determine specific standards for each certificate and so continues to delegate that responsibility to the Department and will continue to consult with the Department in their development. Doing so does not lessen the Department's responsibility to develop and promulgate general and specific standards within the requirements of the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Other Revisions on Final-Form

Other changes, not based upon public comments, were made by the Board to clarify provisions in the document. These changes are included in the final-form. The original scope of proposed revisions was not expanded.

Affected Parties

All local education agencies, teacher preparing institutions, and perspective and current teachers and administrators are affected by these regulations.

Cost and Paperwork Estimates

Assessments:

With the expansion of assessment to include a measure of professional performance and to measure performance

and knowledge at more points, additional costs will be incurred. It is difficult to accurately estimate these costs, but it is anticipated that the current cost of \$230 for an applicant is likely to double at each of the initial and advanced certificate points. In development of the assessment program, the Department is directed to use, where appropriate available instructions to eliminate development costs. Costs for assessment may be shared among the applicant for certification, the preparing institution and the employing entity.

Candidates for initial certification (Instructional I, Intern, and Education Specialist I Certificates) are required to complete a range of tests under the National Teachers Exam (NTE). The cost for these tests are borne by the applicant for certification.

Teacher Preparation Program Revisions:

With new principles/standards for preparation programs, revisions will need to be made in these programs. It is difficult to measure the costs since the 91 institutions which offer at least one teacher preparation program vary in curricular design and delivery costs. However, it is assumed that the costs for revisions in programs will be similar to those costs engaged in program redesign regularly undertaken by institutions as required by changes in licensure or accreditation standards.

The requirement for approved programs to provide support to novice teachers in their first year of teaching will likely lead to some additional costs. It is envisioned that institutions, in cooperation with one another and employing appropriate technologies, will be able to accomplish this requirement while minimizing any additional cost.

Effective Date

These final-form regulations will become effective upon final publication in the *Pennsylvania Bulletin*.

Sunset Date

The effectiveness of Chapter 49 will be reviewed by the Board every 10 years, under § 49.51. Thus, no sunset date is necessary.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 9, 1997, the Board submitted a copy of the notice of proposed rulemaking published at 27 Pa.B. 2011 to IRRC and to the Chairpersons of the House and Senate Committees on Education for review and comment. In compliance with section 5(c) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of the comments received as well as other documentation.

In preparing these final-form regulations, the Board has considered the comments received from IRRC, the Committees and the public.

Final-form regulations were approved by the Committees on June 7, 1999, but were disapproved by IRRC on June 17, 1999, in accordance with section 5(c) of the Regulatory Review Act. Under section 7(a) of the Regulatory Review Act (71 P. S. § 745.7(a)), the Board notified the Governor, IRRC and the Standing Committees of its intent to revise final-form regulations and to proceed with its promulgation as revised, under section 7(c) of the Regulatory Review Act.

Two reasons were cited by IRRC for disapproval. First, IRRC questioned the authority of the Board to delegate to the Department responsibility for developing standards

for certificates. Specifically, IRRC questioned the authority of the Board requiring candidates for certification to meet Department prescribed standards based on principles established in the revisions to the chapter. Variations on this delegation are found in §§ 49.42, 49.81 (b), 49.101, 49.111(a), 49.121(d) and 49.163. To address this concern, the Board revised the final-form regulations to adopt the principles as the standards for the major certificate categories. It is the Board's understanding that the authority delegated to the Department in § 49.13 (b)(3) and (10) continues to provide the Department with the authority and responsibility to establish procedures, administrative agency interpretative policies and directives relating to certification and staffing. This authority is consistent with the authority granted the Department generally by the Public School Code of 1949 (24 §§ 1-101—27-2702) and section 1302 of The Administrative Code of 1929 (71 P. S. § 352), as well as section 2 of the act of May 29, 1931 (P. L. 210, No. 126)(24 P. S. § 1225).

Second, for reasons of clarity, IRRC questioned a provision in § 49.103 which would require applicants for an Educational Specialist II Certificate to complete 3 years of satisfactory teaching on an Educational Specialist I Certificate. This provision was questioned on proposed rulemaking by public commentators and IRRC. The Board has revised the final-form to correct the provision to require satisfactory service on the Educational Specialist I Certificate.

The report and revisions to the final form were submitted to the Standing Committees and IRRC on July 27, 1999, and were deemed approved by the Committees on August 6, 1999, and approved by IRRC on August 19, 1999, in accordance with section 5(c) of the Regulatory Review Act.

Contact Person

The official responsible for information on the Board's process of promulgating these final-form regulations is Peter H. Garland, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-3787.

Findings

The Board finds that:

(1) Public notice of the intention to adopt these amendments was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder in 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) The amendments are necessary and appropriate for the administration of the Public School Code of 1949.

Order

The Board, acting under the authorizing statute, orders that:

(a) The regulations of the Board, 22 Pa. Code Chapter 49, are amended by amending §§ 49.1, 49.2, 49.11—49.18, 49.31—49.34, 49.41, 49.42, 49.51, 49.62, 49.62a, 49.63, 49.64a, 49.65, 49.68, 49.72, 49.81—49.83, 49.85, 49.91, 49.101—49.103, 49.105, 49.111, 49.121, 49.131, 49.133, 49.141—49.143, 49.151, 49.153, 49.161, 49.163, 49.171, 49.172 and 49.182; deleting 49.64b, 49.64c, 49.64d, 49.67, 49.112, 49.122, 49.162, 49.164, 49.183 and 49.184; and adding § 49.191 to read as set forth in Annex A.

(*Editor's Note:* Section 49.15 was proposed to be amended but the proposed amendments have been withdrawn and the text appears in its current version in Annex A.)

(b) The Executive Director will 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 final publication in the *Pennsylvania Bulletin*.

PETER H. GARLAND,
Executive Director

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 4749 (September 4, 1999).)

Fiscal Note: Fiscal Note 6-258 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

Subchapter C. HIGHER EDUCATION

CHAPTER 49. CERTIFICATION OF PROFESSIONAL PERSONNEL

Subchapter A. GENERAL PROVISIONS

THE PROGRAM

§ 49.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Public School Code of 1949 (24 P. S. §§ 1-101—27-2702).

Approved teacher certification program—A sequence of courses and experiences offered by a preparing institution which is reviewed and approved by the Department.

Assessment of basic skills—A measurement of a candidate's ability to communicate orally and in writing and to demonstrate proficiency in fundamental computational skills.

Assessment of general knowledge—A measurement of a candidate's knowledge in the fields of literature, fine arts, mathematics, the sciences and social studies.

Assessment of professional knowledge and practice—A measurement of a candidate's 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.

Assessment of subject matter—A measurement of a candidate's knowledge of an academic field or discipline to be taught in the public schools of this Commonwealth.

Candidate—A person seeking certification in any of the areas outlined in this chapter.

Certificate—A document prepared and issued by the Department indicating that the holder has completed a professional preparation program and is qualified to perform specific professional duties.

Chief school administrator—The superintendent, intermediate unit executive director, or equivalent private school administrator.

Collegiate studies—Studies pursued at institutions which are entitled to apply to themselves the designation of college or university as defined by 24 Pa.C.S. Chapter 65 (relating to private colleges, universities and seminaries).

Commissioned officer—District superintendents and assistant district superintendents under section 1078 of the act (24 P. S. § 10-1078) (relating to Commissions; objections to election).

Continuing professional development—The formal acquisition of collegiate or in-service credits designed to improve and expand the expertise of professional personnel who receive their initial certificate in a given certificate category after June 1, 1987.

Degree-granting institution—A public college or technical institute which provides a 2 year, postsecondary college-parallel, terminal-general, terminal-technical, out-of-school youth or adult education program or a combination of these and which is established and operated under the act.

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.

Invalid certificate—A certificate which no longer enables its holder to perform specific professional duties.

Occupational competency credential—A document issued by the Occupational Competency Testing Examiners which signifies that the holder possesses knowledge and skill in a technical field at a journeyman level. When the document is presented to a preparing institution or to the Department, it may be registered by the Department on the holder's vocational intern, vocational instructional or instructional certificate, and it enables the holder to teach that occupational specialty.

Permit—A document prepared and issued by the Department indicating that the holder is allowed to serve in lieu of a certificated professional for a specified period of time.

Preparing institution—A college or university that offers a program approved by the Department to prepare professional personnel for employment in the public schools.

Professional duties—A duty the performance of which is restricted to professional personnel by the scope of their certificate.

Professional personnel—Professional employes, excluding school secretaries, as defined in section 1101 of the act (24 P. S. § 11-1101) (relating to definitions).

Professional Standards and Practices Commission (PSPC)—A body composed of educators from the fields of basic and higher education, members of the general public, and an ex officio member of the Board established by the Teacher Certification Law.

Satisfactory achievement—An acceptable level of performance as determined by the Secretary in consultation with the Board on the Department prescribed assessments required in this chapter.

School entity—Public schools, school districts, intermediate units and area vocational-technical schools.

Teacher Certification Law—The act of December 12, 1973 (P. L. 397, No. 141) (24 P. S. §§ 2070.1—2070.18).

Term of validity—A period of time as specified in §§ 49.82, 49.92, 49.142 and 49.152 in which the holder of a certificate is entitled to perform the professional duties for which the certificate was issued.

§ 49.2. Inactivity and invalidity.

(a) *Inactivity*. A certificate or commission shall be inactive if the holder fails to meet § 49.17 (relating to continuing professional development).

(b) *Invalidity*. A certificate shall be invalid if the holder fails to meet, or if circumstances arise as specified in § 49.33, § 49.34(b), § 49.82, § 49.92, § 49.102, § 49.142 or § 49.152.

§ 49.11. General.

(a) Certificates and letters of eligibility in force in this Commonwealth on September 25, 1999, shall continue in force, subject to all the terms and conditions under which they were issued until they expire by virtue of their own limitations.

(b) State certificates and permits shall be issued as provided in this chapter, and teachers, and other professional personnel may not perform professional duties or services in the schools of this Commonwealth in any area for which they have not been properly certificated or permitted.

(c) This chapter establishes the specific requirements for the certification and permitting of persons serving in the public school entities of this Commonwealth as professional employes, temporary professional employes, substitutes, and commissioned school administrators of the Commonwealth.

§ 49.12. Eligibility.

In accordance with sections 1109, 1202 and 1209 of the act (24 P. S. §§ 11-1109, 12-1202 and 12-1209), every professional employe certificated or permitted to serve in the schools of this Commonwealth shall:

- (1) Be of good moral character.
- (2) Provide a physician's certificate stating that the applicant, with or without reasonable accommodation, is able to perform successfully the essential functions and duties of an educator. A qualified applicant who has tuberculosis or another communicable disease or a mental disability, will not be deemed to pose a direct threat to the health or safety of others unless a threat to health or safety cannot be eliminated by a reasonable accommodation.
- (3) Be at least 18 years of age.
- (4) Except in the case of the Temporary Permit, Vocational Instructional Intern Certificate, and Vocational Instructional Certificate, have earned minimally a baccalaureate degree as a general education requirement.

§ 49.13. Policies.

(a) The Board, through the Secretary, will provide standards for the guidance of the preparing institutions in educating professional personnel for the schools of this Commonwealth.

(b) The Department will have the following responsibilities with respect to certification and permitting of professional personnel in the schools of this Commonwealth:

- (1) Provision of advisory services to college and school personnel in matters pertaining to teacher education and certification.
- (2) Designation of professional titles for personnel.
- (3) Prescription of procedures for issuance of certificates and permits.
- (4) Evaluation and approval of teacher education programs leading to the certification and permitting of professional personnel. Program approval teams shall consist of professional educators from basic and higher education.
- (5) Registration of certificated and permitted persons.
- (6) Maintenance of records of all certificates and permits.
- (7) Assurance that each professional person is properly certificated or permitted for the specific position in which the professional person is employed.

(8) Review and investigation of alleged violations of this chapter.

(9) Prescription of procedures approved by the Board for the appraisal and evaluation of education and experience of applicants for any type of professional certification issued by the Department when the applicant has been denied certification and is prepared by institutions outside this Commonwealth or has appealed in accordance with guidelines approved by the Board in § 49.66 (relating to appeal procedure), a decision pertaining to eligibility for certification rendered by a Commonwealth institution having an approved program. The appellant initially shall have appealed to the institution.

(10) The issuance of administrative agency interpretative policies and directives relating to professional certification and staffing in the schools of this Commonwealth as may be necessary to carry out the intent of this chapter.

(11) Identification and approval of assessment tools, instruments, and procedures to measure basic skills and general knowledge; professional knowledge and practice; and subject matter knowledge.

(c) Except for applicants whose certification status is subject to subsection (b)(9) and § 49.171 (relating to general requirements), the Department will require that an applicant for a certificate shall have completed an approved program and shall be recommended by the preparing institution.

(d) The Department will have the right to review approved programs at any time. Major evaluations shall be conducted at 5-year intervals by teams of professional educators appointed by the Department in accordance with subsection (b)(4) and shall review process and content.

(e) The Department will accept the request of an institution to withdraw from an approved program. The Department will have the right to withdraw the approval of a program from an institution. New students may not be accepted in a program which has lost its approved status after the date of the action.

§ 49.14. Approval of institutions.

To be authorized to conduct programs that lead to certificates for professional positions, institutions and any

of their off-campus centers engaged in the preparation of teachers shall meet the following requirements:

(1) Be approved as a baccalaureate or graduate degree granting institution by the Department.

(2) Be evaluated and approved as a teacher-preparing institution to offer specific programs leading to certification in accordance with procedures established by the Department.

(3) Report to the Department, for approval, all planned changes in previously approved programs. This report shall be made 90 days prior to the implementation of the planned changes.

(4) Follow Department prescribed standards developed from the following principles:

(i) Institutions develop clear goals and purposes for each program, including attention to professional ethics and responsibilities.

(ii) Institutions are able to demonstrate how instructional and clinical activities provide educator candidates with the capacity to enable the achievement of all students.

(iii) Institutions are able to demonstrate that educator candidates have participated in instructional activities that enable the candidates to provide instruction to students to meet the provisions of Chapter 4 (relating to academic standards and assessment), including environment and ecology.

(iv) Institutions are able to demonstrate that educator candidates successfully participate in early and frequent clinical experiences fully integrated within the instructional program.

(v) Institutions have clearly expressed standards for admission to, retention in and graduation from approved programs and actively encourage the participation of students from historically underrepresented groups.

(vi) Institutions provide ongoing assessment of educator candidates' knowledge, skills, dispositions and performance with which to identify needs for further study or clinical experience or dismissal from the program.

(vii) Institutions can demonstrate how information from systematic evaluations of their programs, including students and educator evaluators, and achievement levels of candidates for certification in the Department-designed assessment program are used for continual program improvement.

(viii) Institutions, in partnership with local education agencies, provide a school-based experience integrating the teacher candidates' knowledge, skills and dispositions in professional practice. This experience shall be fully supported by institutional faculty, including frequent observation, consultation with supervising teachers, and opportunities for formative and summative evaluation.

(ix) Institutions provide ongoing support for novice educators in partnership with local education agencies during their induction period, including observation, consultation and assessment.

(x) Institutions provide evidence that an acceptable percentage of candidates applying for certification as determined by the Secretary and Board achieve at a satisfactory level all assessments appropriate to initial certification in each program for which they are approved.

§ 49.15. Approval of experimental programs.

The Department may enter into a written agreement with a preparing institution wishing to conduct an experi-

mental program. The institution shall meet the requirements described in § 49.14 (relating to approval of institutions). Certification shall be given to graduates of an experimental program upon recommendation by the institution if the institution has met all of the following requirements:

(1) Submitted a detailed explanation of the experimental program to the Department for approval.

(2) Planned a thorough procedure conforming to accepted canons of educational research for evaluating results of the experimental program. These results shall be reported to the Department in accordance with a schedule approved at the time of the agreement.

(3) Agreed to terminate the experimental program upon request by the Department when it is judged by a program approval team to be inadequate for preparation of professional personnel.

§ 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 and educational specialists as part of their strategic plan every 6 years as required by Chapter 4 (relating to academic standards and assessments). 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.

(b) The Department will review for approval induction plans submitted by school entities.

(c) The induction plan shall reflect a mentor relationship between the first-year teacher or educational specialist, teacher educator and the induction team.

(d) Criteria for approval of the induction plans will be established by the Secretary in consultation with the Board.

§ 49.17. Continuing professional development.

(a) A school entity shall submit to the Secretary for approval a continuing professional development plan in accordance with section 1205.1 of the act (24 P. S. § 12-1205.1).

(1) A school entity shall develop a continuing professional development plan which shall include options for professional development including, but not limited to, activities such as the following:

- (i) Graduate level coursework.
- (ii) Obtaining a professionally related master's degree.
- (iii) Department-approved in-service courses.
- (iv) Curriculum development work.
- (v) Attendance at professional conferences.
- (vi) Supervised classroom observations of other professional employees.

(2) The continuing professional plan shall define terms used including, but not limited to, the following:

- (i) Professionally related graduate level coursework.
- (ii) Professionally related master's degree.
- (iii) Curriculum development work.
- (iv) Professional conferences.

(v) Supervised classroom observations of other professional employees.

(3) The continuing professional development plan shall be developed by teacher representatives chosen by the teachers and administrative representatives chosen by the administrative personnel of the school entity. The plan shall describe the persons who developed the plan and how the persons were selected.

(4) The continuing professional development plan submitted to the Secretary shall be approved by both the development committee and the board of the school entity.

(5) The Secretary will promulgate guidelines which include a process for amending approved continuing professional development plans in accordance with the requirements for initial preparation of the plans.

(6) The continuing professional development plan shall include a section which describes how the professional development needs of the school entity and its professional employees are to be met through implementation of the plan.

(7) Initial continuing professional development plans shall be implemented by a school entity no later than the beginning of the 1988-89 school year.

(b) A commissioned officer who obtains a Letter of Eligibility for Superintendent after June 1, 1987, shall, thereafter, present to the Secretary evidence of satisfactory completion of 6 credit hours of continuing professional development courses every 5 years. This subsection will be satisfied by taking collegiate studies or Department-approved in-service courses or a combination thereof.

(c) Professional personnel who fail to comply with the continuing professional development plan under subsection (a) or commissioned officers who fail to complete the required 6 credit hours under subsection (b) will have their certificates or commissions rendered inactive until the requirement is met.

(d) School districts that employ professional personnel or commissioned officers with inactive certificates or commissions are subject to penalties provided for under section 2518 of the act (24 P. S. § 25-2518).

§ 49.18. Assessment.

(a) The Secretary will institute an assessment program for candidates for certification designed to assess their basic skills and general knowledge; professional knowledge and practice; and subject matter knowledge. The following principles shall guide the Secretary in the development of an assessment program:

(1) The assessment program will be based in the standards developed for each certificate.

(2) The assessment program will measure the candidate's abilities across the domains of basic skills knowledge, professional knowledge and practice, and subject matter knowledge employing a variety of measures at a minimum of three points:

(i) During the candidate's preparation program.

(ii) Upon application for initial certification.

(iii) Upon application for Level II, supervisory or administrative certification.

(3) The assessment program will be developed in consultation with teachers, administrators, teacher educators, and educational specialists with relevant certification.

(4) The assessment program will employ, when appropriate, available assessment tools, instruments and procedures.

(b) The Secretary, in consultation with the Board, will establish a satisfactory achievement level for the assessments in subsection (a).

(c) The assessments in basic skills and general knowledge; professional knowledge and practice; and subject matter knowledge will be given, and satisfactory achievement levels shall be reached, prior to the issuance of a certificate.

(d) A periodic review of the assessment program will be made by the Board every 3 years.

EMERGENCY PERMITS

§ 49.31. Criteria for eligibility.

The Department may issue an emergency permit for service in the public schools, at the request of the employing public school entity, to an applicant who is a graduate of a 4-year college or university to fill a professional vacancy when a fully qualified and properly certificated applicant is not available. The emergency permit is issued on the basis of terms and conditions agreed upon between the requesting public school entity and the Department. Each July, the Department will report to the Board the number and nature of emergency permits issued during that year.

§ 49.32. Emergency cases.

The Department may approve the issuance of an emergency permit to a person at the request of a public school entity upon receiving appropriate evidence of exceptional conditions requiring Department resolution of the staffing problem.

§ 49.33. Expiration.

Emergency permits shall expire with the termination of any summer school conducted which follows the date of issuance. Persons holding an emergency permit shall be used in staffing summer school positions only when regular employees holding the appropriate provisional or permanent certificate are not available.

§ 49.34. Issuance by chief school administrator.

(a) The chief school administrator of a public school entity is authorized to issue an emergency permit for day-to-day service as a substitute when the following conditions are met:

(1) The person for whom the permit is sought holds a valid Pennsylvania certificate or its equivalent from another state.

(2) No appropriately certificated individual is available to fill the substitute position.

(3) The person for whom the permit is sought consents to an assignment outside the area of the person's certification.

(b) This permit shall be valid for 15 cumulative school days of service as a day-to-day substitute in each certificate endorsement area. If renewal is necessary, the chief school administrator may request, within 30 days of the person's last day of service, issuance of an emergency permit by the Department under §§ 49.31 and 49.32 (relating to criteria for eligibility; and emergency cases).

(c) This permit will not qualify the holder to serve in a vacant position which must be filled by a temporary professional employe or professional employe or to serve as a substitute for a regularly appointed professional

employe or temporary professional employe on an approved leave of absence. Issuance by the Department is used to qualify persons for this service.

(d) Under no conditions may a permit be issued or used during a work stoppage.

ADMINISTRATIVE COMMISSION

§ 49.41. Description.

(a) Administrative commissions will be issued by the Department, in the form of a certificate of appointment.

(b) A commission will be issued for a specific term in accordance with Article X of the Public School Code of 1949 (24 P. S. §§ 10-1001—10-1089).

§ 49.42. Letter of eligibility.

A letter of eligibility of an administrative commission shall be issued in lieu of a certificate by the Department to a candidate who has completed an approved program of preparation in administration and who has been recommended by the preparing institution. Candidates for letters of eligibility shall be able to help students achieve under Chapter 4 (relating to academic standards and assessment). Letters of eligibility will be issued to candidates who present evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment) and who meet the following standards:

(1) The administrator demonstrates educational leadership which provides purpose and direction for the achievement of all students.

(2) The administrator effectively organizes and manages the total educational program of a local education agency with particular attention to the statutory and regulatory environment of education.

(3) The administrator understands and effectively manages financial and human resources to foster student achievement.

(4) The administrator effectively communicates with students, faculty, staff, parents and members of the community.

(5) The administrator, in collaboration with faculty, staff, students and parents, fosters a climate conducive to student achievement.

(6) The administrator thinks systematically about practice, learns from experience, seeks the advice of others, draws upon educational research and scholarship, and actively seeks opportunities to grow professionally.

CHANGES IN CERTIFICATION

§ 49.51. Review of certification.

(a) The Department will report annually to the Board on the status of certification in this Commonwealth.

(b) The Board will conduct a major review of certification regulations at 10-year intervals.

MISCELLANEOUS PROVISIONS

§ 49.62. Temporary permits.

The Department may issue permits at the request of an employing public school entity. The permit may be issued in lieu of a certificate to a competent specialist in any area of knowledge to enable the schools of this Commonwealth to use the services of noncertified personnel for supplemental instruction under the supervision of a certificated teacher. The service shall be part-time and may not exceed 300 clock-hours during a school year. These persons will not be considered professional staff.

§ 49.62a. Program specialist certificate.

(a) The Department may issue a program specialist certificate, at the request of the employing public school entity, to an applicant who meets the qualifications and competencies needed to perform the duties and functions of a locally established professional position approved by the local board of directors.

(b) Program specialist certificates may be issued only for an area of service in which a certificate does not exist. They may be issued only to persons who hold a valid Pennsylvania certificate or its equivalent from another state. Annually, the Department will report to the Board the number and nature of these certificates issued during the year.

(c) Program specialist certificates are valid only for the position described in the approved position description and are not transferable to other school entities.

§ 49.63. Applicants educated in foreign countries.

(a) The Department will issue certificates to applicants who have been educated in a foreign country who meet the established Commonwealth standards for the certificates sought. Applicants shall be required to provide official transcripts of studies completed abroad.

(b) The Department may substitute competency examinations for transcript review in a case involving the loss of credentialing documents in a foreign country providing the applicant submits acceptable evidence that the applicant did, in fact, complete a teacher education program.

(c) The Department and its recommending institutions will insure that applicants educated in foreign countries or who are foreign nationals or resident aliens are proficient in speaking, reading and writing in the English language.

§ 49.64a. Authority to annul and reinstate certificates and discipline professional educators.

(a) A professional certificate or letter of eligibility obtained by fraud or mistake shall be considered void "ab initio" and shall be annulled by the Secretary. An annulment will not be effected without prior notice and hearing in accordance with reasonable procedures as the Secretary will prescribe, after review of and comment on the procedures by the Board.

(b) In accordance with the authority vested with the Professional Standards and Practices Commission by the Teacher Certification Law, the Commission may discipline professional educators.

(c) In accordance with the authority vested with the Professional Standards and Practices Commission by section 16 of the Teacher Certification Law (24 P. S. § 2070.16), the Commission may reinstate a professional educator's certificate.

§ 49.64b. (Reserved).

§ 49.64c. (Reserved).

§ 49.64d. (Reserved).

§ 49.64e. Mandatory reports from schools.

The board of school directors of the employing school district or the board of directors of each employing intermediate unit or area vocational technical school, or the appropriate governing body of the employing public charter or nonpublic school shall report to the Secretary within 10 days of dismissal the name of any person who

has been dismissed and the cause for the dismissal and the name of any individual who is charged or convicted of a crime of moral turpitude.

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

(a) The Department will issue the appropriate Commonwealth certificate to applicants who have:

(1) Graduated from a State approved out-of-State college or university whose teacher education requirements are comparable to those of this Commonwealth.

(2) Completed the preparing institution's teacher education program of the preparing institution.

(3) Received the recommendation of the preparing institution for the subject or area to be taught.

(4) Presented evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment).

(b) The Department may enter into a reciprocal certification agreement with the appropriate authority of another state to recognize comparable certificates.

(c) Candidates certified by the National Board for Professional Teaching Standards will be granted the highest level certificate applicable.

§ 49.67. (Reserved).

§ 49.68. Evaluation of prescribed requirements and standards.

Institutions of higher education within this Commonwealth with approved teacher education programs are authorized to evaluate, equate, and accredit educational experience and background of candidates for meeting the specific requirements for certification. A candidate may not be recommended for certification until providing evidence of satisfactory achievement in the assessments under § 49.18 (relating to assessment).

Subchapter B. CERTIFICATION OF GRADUATES FROM COMMONWEALTH INSTITUTIONS

GENERAL PROVISIONS

§ 49.72. Categories of certificates and letters of eligibility.

(a) The following basic categories of certificates and letters of eligibility will be issued by the Department:

- (1) Temporary Permit.
- (2) Emergency Permit.
- (3) Intern Certificates.
- (4) Instructional Certificates.
- (5) Educational Specialist Certificates.
- (6) Supervisory Certificate.
- (7) Administrative Certificate.
- (8) Program Specialist Certificate.
- (9) Letters of Eligibility.
- (10) Vocational Education Certificates.

(b) The Secretary annually will disseminate an approved list of official titles of all certificates and letters of eligibility which the Department has issued during the past fiscal year or proposes to issue in the ensuing year.

INSTRUCTIONAL CERTIFICATES

§ 49.81. General.

(a) The Department will issue instructional certificates to persons whose primary responsibility is teaching. Candidates for instructional certificates shall be able to help students achieve under Chapter 4 (relating to academic standards and assessment).

(b) Instructional certificates will be issued to candidates who meet the following standards:

(1) The teacher understands the central concepts, tools of inquiry, and structures of the discipline the teacher teaches and can create learning experiences that make these aspects of subject matter meaningful for all students.

(2) The teacher understands how all children learn and develop, and can provide learning opportunities that support their intellectual, social, career and personal development.

(3) The teacher understands how students differ in their ability and approaches to learning and creates opportunities that foster achievement of diverse learners in the inclusive classroom.

(4) The teacher understands and uses a variety of instructional strategies, including interdisciplinary learning experiences, to encourage students' development of critical thinking, problem solving and performance skills.

(5) The teacher uses an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning and self-motivation.

(6) The teacher uses knowledge of effective verbal, nonverbal and media communication techniques supported by appropriate technology to foster active inquiry, collaboration and supportive interaction in the classroom.

(7) The teacher plans instruction based upon knowledge of subject matter, students, the community and curriculum goals.

(8) The teacher understands and uses formal and informal assessment strategies to evaluate and ensure the continuous intellectual, social and physical development of the learner.

(9) The teacher thinks systematically about practice, learns from experience, seeks the advice of others, draws upon educational research and scholarship and actively seeks out opportunities to grow professionally.

(10) The teacher contributes to school effectiveness by collaborating with other professionals and parents, by using community resources, and by working as an advocate to improve opportunities for student learning.

§ 49.82. Instructional I.

(a) The Instructional I Certificate shall be valid for 6 years of teaching in the area for which it applies. It may be converted to an Instructional II Certificate as provided by § 49.83 (relating to Instructional II).

(b) The Instructional I Certificate will be issued to applicants who:

- (1) Possess a baccalaureate degree.
- (2) Present evidence of successful completion of a Department-approved teacher preparation program.
- (3) Present evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment).

(4) Receive recommendation for certification from a college or university.

§ 49.83. Instructional II.

The Instructional II Certificate shall be a permanent certificate issued to an applicant who has completed:

- (1) A Department-approved induction program.
- (2) Three years of satisfactory teaching on an Instructional I Certificate attested to by the chief school administrator of the approved public or nonpublic school entity in which the most recent service of the applicant was performed.
- (3) Twenty-four credit hours of collegiate study or its equivalent in in-service courses approved by the Department, or both.
- (4) Present evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment).

§ 49.85. Limitations.

- (a) The grade level limitations of instructional certificates shall be the following:
 - (1) Early childhood (nursery, kindergarten, grades one to three or ages 3 to 8).
 - (2) Elementary (kindergarten, grades one to six or ages 3 to 11).
 - (3) Middle level (grades six to nine or ages 11 to 14).
 - (4) Secondary (grades seven to 12 or ages 11 to 21).
 - (5) Specialized areas (kindergarten to grade 12 or up to age 21).
- (b) The decision about staffing based on age or grade level rests with the school entity.

INTERN CERTIFICATES

§ 49.91. Criteria for eligibility.

- (a) The Department may make a one-time issuance of an Intern Certificate for service in approved elementary, middle and secondary schools to applicants who, in addition to meeting the requirements of § 49.12 (relating to eligibility), present evidence of satisfactory achievement on Department-prescribed assessments of basic skills, general knowledge and subject matter tests; are enrolled in and have completed appropriate professional education courses in an approved intern program, which may include an induction; and are recommended for certificates by the institution holding approval.
- (b) The applicant will be issued an Instructional I Certificate upon completion of the approved intern program and satisfactory achievement on the assessment of and practice.

EDUCATIONAL SPECIALIST CERTIFICATES

§ 49.101. General.

The Department will issue educational specialist certificates to persons whose primary responsibility shall be to render professional service other than classroom teaching. The service shall be directly related to the personal welfare of the learner and may include service for the needs of other professional personnel working with learners. Candidates for educational specialist certificates shall be able to help students achieve under Chapter 4 (relating to academic standards and assessment). Educational specialist certificates will be issued to candidates who meet the following standards:

- (1) The educational specialist understands the central concepts, structures and delivery styles of the professional area in which the educational specialist practices and can foster learning experiences for all students.
- (2) The educational specialist understands how all children learn and develop, and can contribute to the provision of learning opportunities that support their intellectual, social, career and personal development.
- (3) The educational specialist understands how students differ in their ability and approaches to learning and creates opportunities that are adapted to diverse learners.
- (4) The educational specialist understands and uses a variety of professional strategies to encourage students' development of critical thinking, problem solving and performance skills.
- (5) The educational specialist uses an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning and self-motivation.
- (6) The educational specialist uses knowledge of effective verbal, nonverbal, and media communication techniques supported by appropriate technology to foster active inquiry, collaboration, and supportive interaction in and out of the classroom.
- (7) The educational specialist plans professional services based upon knowledge of professional field, students, the community and curriculum goals.
- (8) The educational specialist understands and uses formal and informal assessment strategies to evaluate and ensure the continuous intellectual, social and physical development of the learner.
- (9) The educational specialist thinks systematically about practice, learns from experience, seeks the advice of others, draws upon educational research and scholarship and actively seeks out opportunities to grow professionally.
- (10) The educational specialist contributes to school effectiveness by collaborating with other educators and parents, by using community resources, and by working as an advocate for change to improve opportunities for student learning.

§ 49.102. Educational Specialist I.

- (a) The Educational Specialist I Certificate shall be valid for 6 years of service in each area for which it is endorsed. It may be converted to an Educational Specialist II Certificate in any endorsement area as provided in § 49.103 (relating to Educational Specialist II).
- (b) The Educational Specialist I Certificate will be issued to applicants who:

- (1) Present evidence of successful completion of a Department-approved educational specialist preparation program or its equivalent.
- (2) Present evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment).
- (3) Receive recommendation for certification from a college or university if completing a Department-approved educational specialist preparation program.

§ 49.103. Educational Specialist II.

The Educational Specialist II Certificate shall be a permanent certificate subject to the requirements of § 49.17(c) (relating to professional development) issued to applicants who:

(1) Have completed a Department-approved induction program.

(2) Have completed 3 years of satisfactory service on an Educational Specialist I Certificate attested to by the chief school administrator of the approved public or nonpublic school entity in which the most recent service of the applicant was performed.

(3) Have completed 24 credit hours of collegiate study or its equivalent in in-service courses approved by the Department, or a combination thereof.

(4) Present evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment).

§ 49.105. Limitations.

The grade level limitations of educational specialist certificates shall be specified in the standards stated for the respective preparation programs of certification.

SUPERVISORY CERTIFICATE

§ 49.111. Supervisory Certificate.

(a) The Department will issue Supervisory Certificates for positions in the schools of this Commonwealth to persons who:

(1) Have completed 5 years of satisfactory professional experience in the area in which the supervisory certificate is sought.

(2) Have completed an approved graduate program preparing the applicant for the responsibilities of supervising in the program area and of directing the activities of certificated professional employees.

(3) Present evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment).

(4) Are able to help students achieve under Chapter 4 (relating to academic standards and assessment).

(5) Meet the following standards:

(i) The supervisor understands the central concepts of organizational leadership, tools of research and inquiry and principles of teaching and learning that make supervision effective and efficient.

(ii) The supervisor understands how all children learn and develop and configures resources to support the intellectual, social and personal growth of students.

(iii) The supervisor knows and understands effective instructional strategies and encourages and facilitates employment of them by teachers.

(iv) The supervisor uses an understanding of individual and group motivation to create a professional development environment that engages teachers to develop and apply effective instructional techniques for all students.

(v) The supervisor is an effective communicator with various school communities.

(vi) The supervisor organizes resources and manages programs effectively.

(vii) The supervisor understands and uses formative and summative assessment strategies to gauge effectiveness of people and programs on student learning.

(viii) The supervisor understands the process of curriculum development, implementation and evaluation and uses this understanding to develop high quality curricula for student learning in collaboration with teachers, administrators, parents and community members.

(ix) The supervisor possesses knowledge and skills in observation of instruction and conducting conferences with professional staff which are intended to improve their performance and enhance the quality of learning experiences for students.

(x) The supervisor thinks systematically about practice, learns from experience, seeks the advice of others, draws upon educational research and scholarship and actively seeks out opportunities to grow professionally.

(xi) The supervisor contributes to school effectiveness by collaborating with other professionals and parents, by using community resources, and by working as an advocate to improve opportunities for student learning.

(b) A Supervisory Certificate for either Curriculum and Instruction or Pupil Personnel Services shall be issued to persons who:

(1) Have 5 years of satisfactory service in the school program area for which the comprehensive certificate is sought.

(2) Have completed an approved graduate program preparing the applicant for the broad area, districtwide supervisory functions specified by the endorsement area of the certificate.

(3) Present evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a).

§ 49.112. (Reserved).

ADMINISTRATIVE CERTIFICATE

§ 49.121. Administrative Certificate.

(a) The Department will issue Administrative Certificates to persons who have had a minimum of 5 years of professional school experience and have completed an approved program of graduate study preparing the applicant to direct, operate, supervise, and administer the organizational and general educational activities of a school. Applicants shall be recommended by the preparing institution in which the graduate program was completed. Candidates for administrative certificates must be able to help students achieve under Chapter 4 (relating to academic standards and assessment).

(b) Certificates may be issued for any administrative area for which program approval has been granted by the Department.

(c) The Department will issue Administrative Certificates to persons who present evidence of satisfactory achievement on assessments prescribed by the Department under § 49.18(a) (relating to assessment).

(d) The Department will issue Administrative Certificates to persons who meet the following standards:

(1) The administrator demonstrates instructional leadership which provides purpose and direction for the achievement of all students.

(2) The administrator demonstrates the organizational skills to implement plans of action efficiently and effectively for student achievement.

(3) The administrator, in collaboration with students, faculty, staff and parents, creates a school climate that fosters student achievement.

(4) The administrator gathers information from, and communicates effectively to students, faculty, parents, staff and the community to facilitate student achievement.

(5) The administrator understands the importance of a clear, detailed vision and an explicitly stated philosophy in shaping a coherent curriculum and in fostering an effective school.

(6) The administrator makes systematic use of data to assess the needs and accomplishments of students, faculty and staff.

(7) The administrator thinks systematically about practice, learns from experience, seeks the advice of others, draws upon educational research and scholarship, and actively seeks out opportunities to grow professionally.

§ 49.122. (Reserved).

**Subchapter C. VOCATIONAL EDUCATION
CERTIFICATION**

GENERAL PROVISIONS

§ 49.131. Basic requirements for baccalaureate and nonbaccalaureate programs.

(a) Applicants for a certificate shall have completed, in addition to all legal requirements, a program of teacher education approved by the Department and shall have received the recommendation of the preparing institutions.

(b) Preparation in general education, professional education and specialized studies shall be in accordance with standards established by the Department.

(c) Applicants shall present evidence of satisfactory achievement on assessments required in § 49.18 (relating to assessment).

(d) Professional personnel shall present evidence of compliance with § 49.17 (relating to continuing professional development).

§ 49.133. Levels of certification.

Vocational Instructional Certificates shall be issued for the following levels of qualifications:

- (1) Level I (Provisional).
- (2) Level II (Permanent).

VOCATIONAL INSTRUCTIONAL CERTIFICATES

§ 49.141. General.

(a) The Department will issue Vocational Instructional Certificates to persons whose primary responsibility is teaching occupational skills in State approved vocational education programs in the public schools of this Commonwealth. The certificates will be valid for teaching in any vocational or technical area for which the holder has registered his occupational competency credential with the Department in the manner prescribed by the Department.

(b) The holder of a vocational teaching certificate may also teach the technical skills and knowledge of the holder's occupation in courses of comparable content provided in secondary school programs which have not been accorded State approval as vocational education programs under conditions in the policies and standards of the Department. Candidates for vocational instructional certificates shall be able to help students achieve under Chapter 4 (relating to academic standards and assessment).

§ 49.142. Vocational Instructional I.

(a) A single certificate will be issued and titled, "Vocational Instructional Certificate." Individuals qualifying for this certificate shall be authorized to teach in the areas for which they also hold an occupational competency

credential. The occupational competency credential will be issued by the Department or an institution of higher education approved by the Secretary. The applicant shall have:

(1) A minimum of 2 years wage-earning experience in addition to the learning period required to establish competency in the occupation to be taught.

(2) Successfully completed the occupational competency examination or evaluation of credentials for occupations where examinations do not exist or present evidence of satisfactory achievement on an assessment of subject matter under § 49.18 (relating to assessment).

(3) Completed 18 credit hours in an approved program of vocational teacher education.

(4) Presented evidence of satisfactory achievement on the assessment of basic skills under § 49.18.

(b) The Vocational Instructional I Certificate shall be valid for 6 years during which time the applicant shall complete the approved preparation program leading to the Vocational Instructional II Certificate.

§ 49.143. Vocational Instructional II.

The Vocational Instructional II Certificate shall be a permanent certificate issued to an applicant who has:

(1) Completed 3 years of satisfactory teaching on a Vocational Instructional I Certificate attested to by the chief school administrator of the approved public or nonpublic school entity in which the most recent service of the applicant was performed.

(2) Completed 60 credit hours in an approved program in the appropriate field of vocational education.

(3) Presented evidence of satisfactory achievement in assessments of general knowledge and of professional knowledge and practice under § 49.18 (relating to assessment).

(4) Completed a Department-approved induction program.

VOCATIONAL INTERN CERTIFICATES

§ 49.151. Eligibility and criteria.

(a) The Department will issue Vocational Intern Certificates for teaching in State approved programs of vocational education in the public schools of this Commonwealth to applicants who have:

(1) Met all eligibility requirements stipulated in § 49.12 (relating to eligibility) except for the baccalaureate degree requirement in § 49.12(4).

(2) Provided evidence of satisfactory achievement in assessments of subject matter under § 49.18 (relating to assessment) or satisfactory occupational competency by one of the following:

(i) Successfully completing the occupational competency examination of the Department.

(ii) Securing recognition of occupational competency upon the basis of credentials review and adequate work experience beyond the learning period as established by the Department in those competency areas where occupational competency examinations do not exist.

(iii) Receiving State licensure or occupational accreditation by a Board of Examiners recognized by the Commonwealth.

(iv) Receiving certification from another state whose certification criteria are similar to those of this Commonwealth.

(3) Been accepted for enrollment in a State approved vocational teacher preparation program at a Commonwealth college or university.

(4) Been recommended for the certificate by the institution at which they are enrolled or accepted.

(b) The applicant shall be issued a Vocational Instructional I Certificate upon presenting evidence of 2 years wage-earning experience, completion of an approved intern program, and satisfactory achievement on the assessment of basic skills.

§ 49.153. Vocational emergency permit.

(a) The chief school administrator having jurisdiction over any approved Vocational Education program shall be authorized to issue a special emergency permit on a day-to-day basis to an occupational practitioner when no properly certificated teachers are available. The teacher shall function under the supervision of a properly certificated supervisor or administrator. Assignments as described in this section shall be made only in case of an extreme emergency and may not exceed 15-consecutive school days. This permit shall be valid for 15 days of substitute service and may be renewed for an additional 15 school days upon the approval of the Secretary.

(b) This permit does not qualify the holder to serve as a regularly elected teacher to fill a vacant position or as a long-term substitute. These positions shall be filled by a person holding a valid Vocational Instructional or a State issued Emergency Permit. Reference should be made to § 49.32 (relating to emergency cases).

**SUPERVISOR OF VOCATIONAL EDUCATION
CERTIFICATE**

§ 49.161. Supervisor of Vocational Education.

(a) The Department will issue a Supervisor of Vocational Education Certificate to a person who shall have a minimum of 3 years satisfactory certificated vocational teaching experience and whose primary assignment will be either or both of the following:

(1) Instructional supervision in the fields of vocational education—vocational agriculture, vocational business, distributive education, health occupations, vocational home economics, and vocational industrial, or trade and industrial—in area vocational technical schools and corresponding vocational courses in the public secondary schools of this Commonwealth.

(2) Directing the activities of professional staff teaching in the program areas specified in paragraph (1).

(b) The Department will issue a Supervisor of Vocational Education Certificate to a person who shall meet the requirements of § 49.111(a)(3)—(5) (relating to Supervisory Certificates).

§ 49.162. (Reserved).

**VOCATIONAL ADMINISTRATIVE DIRECTOR
CERTIFICATE**

§ 49.163. Vocational Administrative Director.

The Department will issue the Vocational Administrative Director Certificate to persons who:

(1) Have a minimum of 5 years successful teaching in vocational education.

(2) Have completed an approved program of graduate study following standards listed in § 49.121(d) (relating to Administrative Certificate) preparing them to direct, operate, supervise, and administer the organizational and educational activities of a vocational technical school or

department; applicants shall be recommended by the preparing institution in which the graduate program was completed.

(3) Present evidence of satisfactory achievement on assessments prescribed by the Department under § 49.18(a) (relating to assessment).

§ 49.164. (Reserved).

Subchapter D. OUT-OF-STATE APPLICANTS

§ 49.171. General requirements.

(a) Applicants recommended by out-of-State institutions shall submit to the Department official transcripts for all professional preparation and related studies and satisfactory evidence of educational and work experience. These records will be evaluated by the Department using the established standards applicable to the comparable approved programs at Commonwealth institutions.

(b) The Department will issue the appropriate certificates to persons whose preparation and experience equate to the established standards. If an evaluation by the Department reveals minor deficiencies, the Department will prescribe the additional educational requirements.

(c) The Department may issue the comparable Pennsylvania Certificate to an applicant who, lacking institutional recommendation:

(1) Has been legally certificated by another state at a level comparable to the Pennsylvania certificate sought.

(2) Provides evidence of preparation and experience equating to the established standards for the area of certification sought.

§ 49.172. Letter of eligibility.

(a) The Department will issue the appropriate letter of eligibility for consideration for appointment as a district superintendent or an assistant district superintendent to an applicant who shall:

(1) Have done one of the following:

(i) Completed a Pennsylvania approved graduate level program of educational administrative study for the preparation of chief school administrators.

(ii) Been prepared through an out-of-State graduate level program equivalent to those approved in this Commonwealth.

(2) Have received the recommendation of the preparing institution for certification as a chief school, district level, administrator.

(3) Have provided evidence of 6 years of teaching or other professionally certificated service in the basic schools 3 years of which shall have been in supervisory or administrative positions.

(b) Department evaluation will comply with the following:

(1) The adequacy of preparation will be determined by the Department.

(2) The qualifying educational service to meet experience requirements out-of-State will be determined for all applicants by the Department.

(3) Institutional endorsement of the candidate may be waived by the Department for exceptional reasons such as, but not limited to, nonrecency of graduation, multi-institutional preparation, and institution no longer offering a preparation program for the superintendent.

(c) A commission shall be issued to a person holding a letter of eligibility upon election as a district superintendent or assistant district superintendent by the respective local board of school directors.

Subchapter E. COMMISSIONS AND CERTIFICATES FOR INTERMEDIATE UNITS

§ 49.182. Letter of eligibility.

(a) A letter of eligibility to serve as an intermediate unit executive director or assistant executive director will be issued in lieu of a certificate by the Department to a candidate who has obtained or achieved:

(1) An earned doctorate or a master's degree plus 40 hours of graduate study successfully completed at a State approved college or university.

(2) Six years of experience in education work at the elementary, secondary, county office, intermediate unit, the Department, or State approved college or university level. In 3 of these 6 years, the applicant shall have served successfully in a management or supervisory capacity.

(3) Satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment).

(b) The appropriateness of this experience and the candidate's academic preparation will be determined by the Department.

(c) A commission will be issued to a person holding an appropriate letter of eligibility upon the candidate's election as the executive director or assistant executive director of an intermediate unit by its respective board of directors.

§ 49.183. (Reserved).

§ 49.184. (Reserved).

Subchapter F. LETTERS OF EQUIVALENCY FOR PAY PURPOSES

§ 49.191. Letters of Equivalency.

A Letter of Equivalency shall be issued for salary purposes only, subject to the following terms and conditions:

(1) The Letter of Equivalency for Master's Degree is issued to persons holding a valid Instructional I, Instructional II, Educational Specialist I, Educational Specialist II certificate or their equivalents, upon the accumulation of 36 hours of graduate level credit. A minimum of 18 academic graduate credits shall be earned in the content area of the applicant's primary teaching assignment at a college or university approved to offer graduate work. A maximum of 18 of the credit requirement may be satisfied through in-service programs approved by the Secretary of Education for meeting master's equivalency requirements.

(2) The Letter of Equivalency for Baccalaureate Degree is issued to holders of Vocational Instructional I, Vocational Instructional II or their equivalents upon the accumulation of 90 college credits. A minimum of 18 credit hours of the final 30 shall be earned at a State-approved baccalaureate degree granting institution. The remaining 12 may be satisfied, in full or in part, through in-service programs approved by the Secretary for meeting baccalaureate equivalency requirements.

(3) A grade of "C" or better is required in college and university courses in which grades are given and a letter of satisfactory completion is required for all in-service courses used toward the attainment of the certificate.

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