

RULES AND REGULATIONS

Title 22—EDUCATION

DEPARTMENT OF EDUCATION

[22 PA. CODE CH. 339]

Vocational Education

The Secretary of Education (Secretary) has amended Chapter 339 (relating to vocational education) to read as set forth in Annex A.

Effective Date

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

The Department of Education (Department) is amending Chapter 339 to read as set forth in Annex A. This final-form rulemaking is made under the authority of 22 Pa. Code § 4.32(a) (relating to standards and reports), Article XVIII of the Public School Code of 1949 (Public School Code) (24 P. S. §§ 18-1801—18-1855), section 2603-B of the Public School Code (24 P. S. § 26-2603-B), regarding powers and duties of the Board, the act of May 29, 1931 (P. L. 210, No. 126) (24 P. S. §§ 1224—1231) and The Administrative Code of 1929 (71 P. S. §§ 745.1—745.15).

The final-form rulemaking was prepared by the Department and received approval of both the State Board of Education (State Board) and the State Board for Vocational Education (Board) in accordance with sections 1841, 2502.8, 2603-B(k) and 2606-B of the School Code.

Background and Purpose

Chapter 339 establishes regulations to define school entities eligible to receive payments on the account of pupils enrolled in vocational curriculums. This final-form rulemaking reflects current State and Federal statutory requirements and Department policies and practices.

Fiscal Impact and Paperwork Requirements

The amendments to existing regulations will impose no adverse fiscal impact or paperwork requirements on the Commonwealth, political subdivisions or the private sector.

Affected Parties

The amendments affect school districts and career and technical centers (CTCs) in this Commonwealth.

Sunset Date

The Department continuously monitors its regulations. Therefore, no sunset date has been assigned.

Summary of Public Comments and Responses to Proposed Rulemaking

The proposed rulemaking was published at 36 Pa.B. 560 (February 4, 2006). The Department accepted formal written comments within a 30-day public comment period after publication of the proposed rulemaking.

Throughout proposed rulemaking, IRRC and other commentators made technical suggestions to promote clarity. In response, the Department either made the requested revision or removed the language at issue to eliminate the concern. Following is a summary of the substantive comments and the Department's response to those comments.

Statutory Authority

A major question raised was whether the Department has statutory authority to amend Chapter 339. In preparing the proposed amendments to Chapter 339, the Department followed the procedure set forth by the General Assembly in Articles XVIII, XXV and XXVI of the Public School Code. Specifically, the Department exercised its duty to prepare rules that govern technical institutes and area vocational technical schools. See 24 P. S. §§ 18-1841 and 25-2502.8; see also section 1303 of The Administrative Code of 1929 (71 P. S. § 353). The Department then submitted the proposed amendments to both the State Board and the Board for review and approval, as required in Articles XVIII and XXVI of the Public School Code. See 24 P. S. §§ 18-1841, 26-2603-B(k) and 26-2606-B. Both Boards approved the proposed amendments prior to publication and have also approved the final amendments. Thus, the Department has satisfied the law's requirements.

§ 339.1a. Definitions.

A commentator recommended that the regulation define the term "employment" to include "supported employment" for students with disabilities. The statutory definition of "vocational education" is "to fit an individual to pursue effectively a recognized profitable employment." See 24 P. S. § 18-1801. Because the phrase "profitable employment" includes supported employment, no change in the regulation is needed.

§ 339.2. Operation.

Another commentator requested clarification that vocational programs must admit students with disabilities and provide these students with support and modification as appropriate. While students with disabilities must be provided a free and appropriate education and appropriate accommodations and services, this requirement is addressed in other applicable laws and regulations and need not be repeated here.

§ 339.4. Program approval.

A commentator questioned the need for the Pennsylvania Skills Certificate. Under the Public School Code, the purpose of vocational education is to fit an individual to pursue effectively a recognized profitable employment. See 24 P. S. § 18-1801(2). Further, current regulations provide that "[v]ocational-technical education courses shall include content based upon occupational analysis, clearly stated performance objectives deemed critical to successful employment and assessment of student competencies based upon performance standards." See 22 Pa. Code § 4.31(d) (relating to vocational-technical education). The Pennsylvania Skills Certificate is a means to assess whether a secondary school student is fit to pursue profitable employment and provides the student with recognition for having met the standard of "job ready."

The need for dual enrollment as a standard was questioned. The Department has retained this language but changed the term "and" to "or" to reflect that dual enrollment is an option, not a requirement.

Based upon concerns regarding special education students, the Department redrafted language in this section to ensure students are not excluded from vocational education based on academic abilities, to ensure the student's Individualized Education Program (IEP) team is involved in the student's placement, and to ensure that

the sending school and area vocational-technical school (AVTS) will plan together to meet the needs of special needs students. It was also recommended that the Department add language identifying the alternative achievement standards and assessments for students with severe disabilities. In response, the section was revised to reflect an alternative academic assessment. The Department will not set alternative achievement standards and assessments for occupational testing, however. Accommodations have been identified in the occupational assessment handbook located on the Department's web site, www.pde.state.pa.us.

IRRC made two recommendations: (1) that the Department specify how long records should be kept after a compliance review is complete; and (2) that the Department specify a time frame for completion of duties imposed on the Department and noncomplying schools. The Department incorporated these recommendations into the final-form rulemaking.

§ 339.13. Local advisory committee.

A recommendation to include the special education director from each sending school district on the local advisory committee was rejected. It would be unrealistic and impractical in an AVTS serving numerous districts to include special education directors from all districts in addition to the other required representatives.

§ 339.21. Admissions.

In response to a comment, language setting forth what constitutes success for a student with a disability was added. The phrase "or is attending" was not added because this section addresses admissions, not attendance.

§ 339.22. Program content.

The phrase "commensurate with the student's ability" was not added to subsection (a) because students are protected through the provisions in their IEPs and the laws related to special education.

One commentator questioned why the classification of instructional programs (CIP) is used in the regulations. The Department, as well as all State education agencies providing vocational education, has adopted the CIP classification system to determine if a vocational education program is adequate. The CIP is a taxonomic coding scheme that facilitates reporting of program completion data. All programs that fall under the CIP "must consist of more than one isolated course or learning experience and must not be a haphazard collection of unrelated courses or experiences." See ncs.ed.gov. The course of study that fits a CIP must include a combination of courses and experiences which prepares students for advanced study and provides students with qualifications for an occupation.

IRRC noted that § 339.22(c)(i)(A) duplicates § 339.22(a)(2). The language in both sections is the same. However, the sections pertain to different types of career and technical education, that is, occupational and nonoccupational. Both types of career and technical education are expected to integrate academic standards into career and technical education content.

§ 339.22(10). Minimum time requirements.

Chapter 339 was revised to emphasize the accountability standards required of secondary approved career and technical education (CTE) programs and to expand vocational training opportunities for adults. Although mini-

um hour requirements already exist as part of current Chapter 339, the amendments would strengthen those requirements.

Several entities and individuals commented on the proposed minimum time requirement. Although one commentator supported the minimum time requirement, the other commentators asked the Department to reconsider the proposal. For example, it was noted that the 9th grade is used as exploratory and a 2 hour per day requirement defeats the purpose of career exploration. Another commentator asserted that Tech Prep programs should not be included in the requirement that vocational students spend 360 instructional hours in career and technical education. Tech Prep allows students to explore careers while taking rigorous academics for postsecondary success. It was suggested that Tech Prep programs operate and be approved as 240 hour programs.

The existing minimum instructional hour requirement has not been reduced. The Public School Code defines vocational education as education "to fit an individual to pursue effectively a recognized profitable employment." See 24 P. S. § 18-1801. The Department recognizes the value of Tech Prep in this Commonwealth and provides over \$3 million in support of these programs. The related rigorous academic preparation is supported by the Basic Education subsidy, which assists school districts with the instructional costs associated with academic courses. The vocational subsidy assists school districts and CTCs (operated by a group of districts) with instructional costs associated with career and technical courses. The Department also recognizes the importance of career exploration. However, the Department must remain true to the intent of vocational education as set forth by the General Assembly in the Public School Code. Schools can establish and offer career exploration programs, but these programs are not subject to the vocational subsidy.

Rather than reduce the existing minimum instructional hour requirement, the Department has introduced language that provides school entities with the discretion to determine the percentage of the minimum total hours offered in each year of a program, so long as the resulting sequence meets the minimum total hour requirement.

Hour requirements are valid quality standards, the precedent for which was established by higher education and basic education. Higher education institutions undergo accreditation processes to ensure the educational system and the programs are of quality. To be accredited means an institution of higher education must meet standards, which include hours and program content. Postsecondary vocational institutions also must meet minimum eligibility requirements, which include an occupation preparedness exit point, instructional hour requirement and program content. Postsecondary vocational institutions must prepare students for gainful employment in a specific recognized occupation and provide at least 600 clock hours of instruction.

Basic education and CTE are no different from higher education in this aspect of requiring instructional hours as part of program standards. An instructional hour requirement establishes a minimal expectation for course content and results in a quality educational experience that leads to students graduating prepared for further education and employment.

The hour requirement provided in the proposed amendments serves two purposes: (1) to ensure adequate time for training and education; and (2) to serve as a basis for funding CTE programs. The Public School Code requires

that approved CTE programs have established courses of study that lead to "profitable employment." See 24 P. S. § 18-1801(2). The State law governing CTE follows Federal law in that CTE consists of a sequence of courses that prepare students for further education and careers, and the courses must be competency-based and include specific technical and occupational skills training. Brusteine & Mahler, 1998.

For CTE, the determination of an adequate course of study is based on the CIP. All programs that fall under the CIP "must consist of more than one isolated course or learning experience and must not be a haphazard collection of unrelated courses or experiences." See ncs.ed.gov. Thus, the course of study that fits a CIP must include a combination of courses and experiences that prepares students for advanced study and provides students with qualifications for an occupation.

The Department has adopted the CIP classification system for approved CTE programs. For example, the Department publishes minimum program content for 47.0604 Auto Technician and instructional certification requirements. This description is based on the Nationally developed description, but has been adapted to address Pennsylvania workforce needs. In Department-approved Auto Technology programs, the course of study must include:

... instruction in the diagnosis and testing, including computer analysis, of malfunctions in and repair of engines, fuel, electrical, cooling and brake systems and drive train and suspension systems. Instruction is also given in the adjustment and repair of individual components and systems such as cooling systems, drive trains, fuel system components and air conditioning and includes the use of technical repair information and the state inspection procedures.

See www.pde.state.pa.us, keyword search "CIP codes." This listing serves as the minimum standard for all Department approved Auto Technology programs, and is based on the Nationally developed CIP.

To receive Department program approval, the school must meet the required course of study identified in the CIP. In addition, the school must complete an occupational analysis of each program for which the school is seeking program approval. The occupational analysis at the school level will evidence specific industry identified and validated knowledge and skills standards that students will attain while enrolled in the approved program. There are different methods of occupational analysis, but the most commonly used method is the Developing a Curriculum (DACUM).

In this Commonwealth, an hour standard for CTC originally was established at 540 instructional hours and was later decreased to the current standard of 360 instructional hours to accommodate increased academic requirements. The hour requirement was established to ensure that adequate time has been allotted to school districts and CTCs to address the minimum program content standards outlined in the CIPs. Under the Job Ready initiative, the Department has accepted the direction to ensure all CTE programs are aligned with National industry standards that lead to certifications. To accomplish this, the Department needs to ensure adequate time exists for the school districts and CTCs to adequately address applicable National industry standards.

The need for a given number of instructional hours for technical education is recognized by National accrediting

and certifying agencies, which have established minimum program content standards and instructional hours. To derive the required instructional hours, the certifying agency has conducted an occupational analysis, which examines each performance task associated with a given occupation and the amount of time on task, then connects that information to instructional time. The requirement in this regulation is consistent with the minimums.

An hour requirement both assists in defining minimum program standards and serves as a means of establishing a basis for reimbursement. For postsecondary institutions to be eligible to administer Federal student aid (FSA) funds, programs must be accredited. The accreditation standards address hours and program content. For example, at the National level, students applying for FSA can only receive aid if an institution and program have met eligibility requirements. The eligibility requirements include occupational preparation, number of hours and program content.

At the State level, a similar framework exists for secondary schools. Basic education subsidy is a complicated formula with numerous components. At times, part of the formula can address a time factor such as when districts are reimbursed for students attending other districts as required under section 2562 of the Public School Code (24 P. S. § 25-2562), where "the sending district shall pay the vocational or other extension tuition charge per pupil hour of instruction for each hour of attendance of each such pupil."

Several commentators asserted that the minimum instructional hour requirement contradicts the General Assembly's goal of encouraging young people, including college preparatory students, to pursue agriculture as a career. They contend that the end result of the minimum hour requirement will be a closure of Agriculture Education programs in this Commonwealth.

Although the Department agrees that college preparatory students should be encouraged to participate in CTE, the Department must remain true to the intent of vocational education as set forth by the General Assembly, that is, to prepare an individual to pursue effectively a recognized profitable employment. See 24 P. S. § 18-1801. Approved vocational education programs must have: (a) planned instruction; (b) a series of courses based on occupational analysis; (c) employment related performance standards; (d) administration of occupational assessment; (e) student prepared educational and occupational objectives based on occupational performance; (f) advisory committees; (g) safety education; and (h) admissions policies. College preparatory students have the opportunity to take one of the planned courses or to take a selection of the planned courses offered in an approved program. The required admissions policies cannot prohibit any student from enrolling in one, some or all of the courses. Therefore, students seeking to pursue agriculture as a career can enroll in one or more agriculture courses associated with an approved agriculture program. The concern expressed by some commentators that an hour requirement will lead to the closure of approved agriculture programs is not valid. Rather, to encourage students to study agriculture, schools should offer a sequence of career and technical courses that meets the requirements and also schedule those courses in a manner that will allow students to take them in addition to their academic courses.

Other commentators addressed what courses and activities should be included in the required 360 instructional hours. For example, one commentator observed that the

360 hours should include time spent in academic courses, and that school district-approved career and technical education programs should be 240 hours in length and receive partial funding. Another recommended that the time requirement include early college or dual enrollment courses, experiential learning opportunities, and any science and math courses that are directly related to the student's career goal. It was also recommended that science courses be eligible for the vocational subsidy because many school district agriculture education programs are comprised predominantly of science courses.

It is the program of study that determines if a school district and CTC (operated by a number of school districts) can apply for the vocational subsidy. The Department, in consultation with the regulated community, has identified academic courses that are integral to the Agriculture Education programs of study. The vocational subsidy is based on average daily membership of students enrolled in the approved Agriculture Education programs of study. If these approved programs include the identified academic courses, these courses are considered to be CTE courses and are eligible for the vocational subsidy.

Another suggestion was that the Department modify the reimbursement formula to reflect a sliding scale. The Department does not have authority to modify the subsidy formula used for payments on account of pupils enrolled in vocational curriculums. See 24 P. S. § 25-2502.8. Therefore, this modification was not made.

Several commentators stated that the use of supervised occupational experiences and cooperative and clinical experiences for vocational education credits, which is permitted under the current regulations, would be removed under the amendments. It was noted that, because of the diversity of agriculture, the instruction cannot be limited to classroom time alone. In addition, some commentators asserted that the proposed amendments to Chapter 339 would not permit time documented in the Supervised Agricultural Experience (SAE) system to count toward meeting minimum time requirements.

The current language of Chapter 339 allows vocational education credits to be given for hours spent in supervised occupational experience and cooperative and clinical experiences. The Department is retaining this language, which allows the local entities to determine if they want to provide vocational credits to students participating in SAE projects, and has redrafted this section to reference corresponding Public School Code provisions. The Department is limited by Article XV of the Public School Code and Chapter 11 (relating to student attendance), which state that instruction must occur within the school day. See 24 P. S. § 15-1504; and § 11.2 (relating to school day). Therefore, even under the current regulations, time spent in activities occurring after the school day cannot count toward meeting minimum time requirements. Because the school districts determine the school day, however, SAE experience may count toward the minimum time requirements as long as SAE occurs within the school day as determined by the school district.

§ 339.32. Services.

A commentator recommended that the Department add language to ensure students with disabilities make appropriate vocational choices and receive the support they need to succeed. The Department has incorporated this suggestion.

§ 339.51. Learning environment.

IRRC recommended that the Department list all boards, providers and certification standards with which

shop laboratories must comply. The Department has not done so, because such a list will become outdated. New career opportunities and associated certifying agencies will arise as the workplace changes.

§ 339.53. Contemporary equipment.

IRRC recommended that the Department identify all industry standards that will be applied and replace the term "comparable," which is vague and unenforceable. The Department has redrafted the language in question. It would not be feasible for the Department to include in the regulation a list of standards that will become outdated over time.

§ 339.61. Evaluation.

Finally, it was recommended that language be added to enable the Department to collect data on vocational students with disabilities. The Department has not adopted this language. The intent of subsection (d) is to ensure schools are in compliance with Chapter 339 vocational standards. However, the recommended language exceeds the scope of these regulations. Further, the Department's Bureau of Special Education collects data on students with disabilities.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 4, 2006, the Department submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 560, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Education Committees (Committees) for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Education Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the Committees and the public.

IRRC met on April 17, 2008, and approved the final-form rulemaking. The final-form rulemaking was deemed approved by the Committees on April 16, 2008.

Contact Person

Further information can be obtained by contacting Lee Burket, Director, Bureau of Career and Technical Education, 333 Market Street, Harrisburg, PA 17126-0333, lburket@state.pa.us.

Findings

The Department finds that:

- (1) Public notice of intention to adopt the amendments adopted by this order has been 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 thereunder, 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 adoption of the amendments in the manner provided by this order is necessary and appropriate for administration of the authorizing statute.

Order

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

- (1) The regulations of the Department, 22 Pa. Code Chapter 339, are amended by amending §§ 339.1, 339.1a,

339.2—339.4, 339.13, 339.14, 339.21—339.23, 339.29—339.32, 339.41, 339.51, 339.53, 339.61 and 339.62; and by adding §§ 339.54—339.58 to read as set forth in Annex A.

(2) The Secretary will certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

GERALD L. ZAHORCHAK, D.Ed.,
Secretary

(Editor's Note: the addition of § 339.15 included in the proposal at 36 Pa.B. 560 (February 4, 2006) has been withdrawn by the Department.)

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 2132 (May 3, 2008).)

Fiscal Note: 6-298. (1) General Fund; (2) Implementing Year 2007-08 is \$0; (3) 1st Succeeding Year 2008-09 is \$0; 2nd Succeeding Year 2009-10 is \$548,559; 3rd Succeeding Year 2010-11 is \$914,265; 4th Succeeding Year 2011-12 is \$1,300,000; 5th Succeeding Year 2012-13 is \$1,600,000; (4) 2006-07 Program—\$61,127,000; 2005-06 Program—\$59,636,000; 2004-05 Program—\$58,181,000; (7) Career and Technical Education; (8) recommends adoption.

Annex A

TITLE 22. EDUCATION

PART XVI. STANDARDS

CHAPTER 339. VOCATIONAL EDUCATION

VOCATIONAL EDUCATION STANDARDS

§ 339.1. Scope of applications.

This chapter applies to school entities that provide vocational education programs under Article XVIII of the School Code (24 P. S. §§ 18-1801—18-1855). These programs may receive:

(1) Payments on account of pupils enrolled in vocational curriculums. (See section 2502.8 of the School Code (24 P. S. § 25-2502.8).)

(2) Payments on account of students enrolled in technical institutes. (See section 2504.3 of the School Code (24 P. S. § 25-2504.3).)

(3) Payments on account of approved adult programs. (See section 2506.1 of the School Code (24 P. S. § 25-2506.1).)

(4) Payments on account of approved vocational extension classes and preemployment training. (See section 2507 of the School Code (24 P. S. § 25-2507).)

(5) Payments on account of equipment purchased by area AVTs and TIs. (See section 2508.1 of the School Code (24 P. S. § 25-2508.1).)

(6) Payments for vocational training of recipients of public assistance and unemployment compensation. (See section 2508.3 of the School Code (24 P. S. § 25-2508.3).)

(7) Payments on account of improvements and additions in vocational-technical curriculums. (See section 2508.4 of the School Code (24 P. S. § 25-2508.4).)

(8) Payments under the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (20 U.S.C.A. §§ 2301—2471).

§ 339.1a. Definitions.

(a) The definitions in § 4.3 (relating to definitions) apply to this chapter.

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

Articulation—A planned process of curriculum development, instructional strategies and administrative procedures, which link educational agencies with other education agencies or with industries. The linkage helps students make a transition from a school entity to another school entity, college or university or a business/industry without experiencing delays in or duplication of learning.

Attendance area—A geographical area of school districts and pupils to be served by an AVTS or TI which has been approved by the State Board for Vocational Education. (See section 1840.1 of the School Code (24 P. S. § 18-1840.1).)

CIP Codes—Classification of Instructional Programs—A numerical coding of instructional programs developed by the United States Department of Education used to identify vocational programs.

CTSOs—Career and Technical Student Organizations—In-school organizations that provide personal and leadership development related to a career and technical program area as recognized by the United States Department of Education. (See § 339.30 (relating to student organizations).)

Concentrator—A student who is at least 14 years of age and is enrolled full time in an approved career and technical education program that meets the requirements of this chapter.

Diversified occupations program—A planned vocational program, which may be offered at either the AVTS or a comprehensive high school. The program prepares students from more than one vocational education area of instruction for gainful employment. The program is a partnership between a local business and industry and the school entity. A full range of career competencies are developed at the job training station site. The school, in a classroom setting, provides related academic and technical instruction, including safety.

High-priority occupation—An occupation as defined by the Center for Workforce Information and Analysis within the Department of Labor and Industry, or another occupation determined to meet regional workforce needs as documented through collaboration between the school entity or TI and one or more employers and approved by the Department.

IEP—Individualized Education Program under Chapter 14 (relating to special education services and programs).

Industry standards—Standards established by State or National trade or professional organizations or State or Federal regulatory bodies accepted by the Department that describe what learners should know and be able to do and describe how well learners should know or be able to perform a task in a specific occupation.

Local plan—A plan submitted by a school entity and approved by the Department in accordance with the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (20 U.S.C. §§ 2301—2471), or its successor.

Out-of-school youth—Persons 16 years of age or older who have left full-time school without receiving a secondary school diploma or its recognized equivalent.

Pennsylvania skills certificate—A certificate provided by the Department to recognize vocational and technical education students who have achieved a score of advanced on occupational end-of-program assessments in their chosen technical area.

Program accrediting authority—A regional or National industry-recognized agency or organization that certifies that a program meets education or training standards specific to the industry.

Registered apprenticeship—A training plan registered with the Apprenticeship and Training Council of the Commonwealth (Council) and evidenced by a Certificate of Registration or other appropriate document as meeting the apprenticeship standards of the Council.

State plan—A plan submitted by the Department and approved by the Federal Government in accordance with the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (20 U.S.C. §§ 2301—2471), or its successor.

TI—Technical institute—An institute established, maintained, conducted and operated for the purpose of offering nondegree-granting post high school programs and courses of not more than 2 years' duration, which prepare out-of-school youth and adults for technical areas leading to technical certificates. (See section 1841 of the School Code (24 P.S. § 18-1841 regarding establishment of schools).)

TI Board—An existing area vocational-technical board, or several area vocational-technical boards, that agree to provide for, establish, maintain, conduct and operate a TI.

§ 339.2. Operation.

A board of school directors, acting individually or in conjunction with other boards of school directors, may establish, operate, maintain and conduct vocational or technical education programs, or both, which includes academic preparation consistent with Chapter 4 (relating to academic standards and assessment), under the approved strategic plans.

§ 339.3. Satellite program.

A satellite vocational education program is a program established, maintained and administered by an area vocational-technical board in a participating school district facility as an integral part of the AVTS. The requirements for satellite programs are:

(1) *AVTS requirements.* In school districts having approved satellite programs, the area vocational-technical board shall be required to:

- (i) Maintain school/industry articulation.
- (ii) Supervise vocational student organization activities.
- (iii) Conduct vocational advisory committee activities.
- (iv) Periodically review vocational education program needs in the attendance area and develop recommendations for continued growth and expansion of a coordinated vocational education system.
- (v) Develop recommendations that assist students in meeting their career needs without regard to sex, race or disability.
- (vi) Ensure that a program of safety is incorporated into the curriculum.

(2) *School district requirements.* School districts receiving coordination services for approved satellite vocational educational programs shall:

(i) Maintain budgetary control over supplies and equipment, insurance, utilities and routine upkeep.

(ii) Maintain responsibility for assignment of students in the classes.

(iii) Provide supporting services, such as student guidance, disciplinary control, custodial services, health services and library services.

(3) *Agreements.* Satellites shall be operated in conformity with a memorandum of understanding which identifies the requirements of this section. The memorandum of understanding shall be jointly adopted by the board of school directors and constituent school districts. An area vocational-technical board may also arrange with its constituent school districts to provide coordination services for vocational education classes conducted for adults and postsecondary students.

(4) *Employment.* Instructional staff members employed to provide these educational services in the satellite area may be employed by the school district or by the area vocational-technical board.

§ 339.4. Program approval.

(a) *General rule.* New, expanded or revised programs will be approved by the Secretary prior to operation. A program will not receive vocational education payments until it has been approved by the Secretary under this chapter. Vocational education programs will be subject to approval and reapproval as follows:

(1) *New, expanded or revised programs.* New, expanded or revised programs will be reviewed for approval by the Secretary for compliance with this chapter prior to operation. For funding purposes, new, expanded or revised programs shall be submitted to the Bureau of Career and Technical Education prior to August 1 to receive full-year reimbursement.

(2) *Reapproval.* Previously approved vocational education programs will be reviewed for approval by the Secretary for compliance with this chapter. Every program shall be reviewed for reapproval at intervals of no more than 5 years. The Department has the right to review programs at any time.

(b) *Application for approval or reapproval.* Programs shall be reviewed for compliance with this section. New, expanded, revised and existing programs shall submit evidence of compliance with this chapter. Application shall be made on forms supplied by the Department, which must include:

(1) A description of the program and evidencing how a standards-based philosophy has been incorporated as required by § 339.22 (relating to program content). Evidence includes the school entity's strategic plan and program standards.

(2) Evidence that the program prepares students for employment in high priority occupations and is supported by local employers. Evidence includes documentation that the program is aligned with one or more high priority occupations and documentation that membership of the occupational advisory committee includes representation of local or regional employers from related industries. Evidence for reapproval must also include attainment of targets pursuant to the standards under subsection (d).

(3) Evidence that the instructional equipment is comparable to industry needs as recommended by the occupational advisory committee. Evidence includes the minutes of the occupational advisory committee meetings.

(4) Evidence that the length of time students will be scheduled into a program meets the requirements of § 339.22(a)(9)(i). Evidence includes student schedules.

(5) Evidence that each secondary vocational education teacher will hold a valid certificate for the teacher's assigned position as required by Chapter 49 (relating to certification of professional personnel).

(6) Evidence that adequate resource material will be available to support the instructional program plan as required by program accrediting authorities, if applicable, or recommended by the occupational advisory committee. Evidence includes a list of resource materials required by a program accrediting authority or recommended by the occupational advisory committee, and the list of resource material available in the program.

(7) Evidence that supports that services and accommodations will be available to disadvantaged, disabled or limited English-speaking students enrolled in vocational and technical programs and supported by the district of residence in accordance with applicable law, service agreements and student IEPs. Evidence includes student IEPs and service agreements.

(8) Evidence that school entities will provide students adequate supports to meet academic standards as determined by Chapter 4 and, when applicable, consistent with the student's IEP, and that instruction in these academic areas at all school entities where the student is enrolled is appropriate to the chosen area of occupational training. Evidence includes transcripts, course sequences, student IEPs, support plans and operating agreements.

(9) Evidence that articulation exists between secondary and postsecondary institutions within a service area and that a system exists promoting seamless transition to ensure the maximum opportunity for student placement including opportunities for concurrent enrollment under Article XVI-B of the School Code (24 P. S. §§ 16-1601—16-1613) or dual enrollment or other strategies that promote acquisition of postsecondary credit while still in high school. Evidence includes articulation agreements and concurrent or dual enrollment agreements.

(10) Evidence of program sponsorship or involvement, or both, in CTSOs. Evidence includes student rosters from the CTSO or charter agreements between the school entity and the CTSO.

(11) Evidence, if a program submitted for reapproval is reduced in hours, that the reduction in hours will not result in a less effective education program being offered. Evidence includes demonstration that the requirements of this chapter will be met.

(12) Evidence that joint planning occurs between the AVTs and district of residence around the academic and other needs of attending students. Evidence includes agendas and minutes of joint operating committee meetings and of administrative committees.

(13) Evidence that students are following an educational plan and have an occupational objective. Evidence includes a completed "Educational and Occupational Objectives For a Student Enrolled in a Department-approved Career and Technical Education (CTE) Program" Form as specified by the Department for each student.

(c) *Documentation.* Documentation supporting compliance with each item on the application for approval or reapproval-subsection (b)—shall be maintained at the school entity and shall be available for Department review. Documentation submitted to the Department shall

be maintained by the school entity for 3 years after a compliance review has been completed.

(d) *Retain approval.*

(1) To maintain program approval granted under subsection (a)(1) or (2), it shall be necessary for the school entity to meet the following standards, which will be subject to review by the Department.

(i) Skill attainment targets as set forth in the school entity's local plan, if applicable, or State plan, which may include industry assessment, industry credentials, certification or State assessment.

(ii) Student performance targets on achieving academic standards as set forth in the school entity's local plan, if applicable, or State plan, which includes the PSSA or another Department-approved assessment which measures student performance on academic standards.

(iii) Secondary school completion and student graduation targets as set forth in the school entity's local plan, if applicable, or State Plan, which includes student attainment of a secondary school diploma or its recognized equivalent or a proficiency credential in conjunction with a secondary school diploma.

(iv) Student placement targets as set forth in the school entity's local plan, if applicable, or State Plan, which includes placement in, retention in and completion of postsecondary education or advanced training (including registered apprenticeships), placement in military service, or placement and retention in employment.

(v) Nontraditional participation and completion targets as set forth in the school entity's local plan, if applicable, or State Plan, which includes nontraditional student.

(2) The Department will notify, in writing, each school entity that does not meet the standards under paragraph (1), and will require the school entity to submit a compliance plan within 90 days to the Bureau of Career and Technical Education. Each noncomplying school entity shall develop a compliance plan and document the corrective actions taken pursuant to it. Upon its approval of the plan, the Department will continue to review the program and provide technical assistance.

(e) *Terminations.*

(1) Programs will be terminated for the following reasons:

(i) The program fails within a 3-year period to successfully meet the accountability standards under this section and may be terminated in accordance with § 339.62 (relating to noncompliance: appeal process).

(ii) School entities request termination. Before program termination, the local administrator shall secure board approval and forward a copy of the board's minutes with a letter of explanation to the Department. If the Department does not respond to the school entity's submission within 60 days, the termination shall be considered approved.

(iii) The program reports no student enrollment for 3 consecutive school years and may be terminated in accordance with § 339.62.

(f) *Report.* School entities shall report annually to the Department on the accomplishment of standards as outlined in the State Plan or local plan, if applicable.

(g) *Private school contracts.* Contractual arrangements may be made by public schools with approved private institutions to provide secondary or postsecondary vocational-technical instruction only in occupational fields

for which public school programs are unavailable. The private institutions shall meet program certification and other mandates regarding vocational education programs contained in the School Code and this title.

PLANNING

§ 339.13. Local advisory committee.

The local advisory committee as set forth in § 4.33(a) (relating to advisory committees) shall also include representatives authorized by the workforce investment board, civic organizations and higher education institutions.

§ 339.14. Occupational advisory committee.

The occupational advisory committee as set forth in § 4.33(c) (relating to advisory committees) shall also include representatives authorized by the workforce investment board, civic organizations and higher education institutions.

CURRICULUM

§ 339.21. Admissions.

An admissions policy developed by the local education agency regarding entrance to a vocational education program must state whether enrollment is unlimited or limited. If enrollment is limited, an admissions policy must include nondiscriminatory eligibility requirements for the purpose of predicting a student's success in a given program. For a student with a disability, success shall be predicted by the student's IEP team on the basis of the student's ability to benefit from the program. When the number of students predicted to be successful in a given program is less than the number of openings available in that given program, the openings may be available to adults or students at another school district, which are predicted to be successful in that program. When the number of students predicted to be successful in a given program exceeds the number of openings available, an admissions policy must include a nondiscriminatory selection procedure, as required by current Federal and State statutes, regulations and guidelines.

(1) If a selection procedure is necessary to select and reject qualified applicants, as judged by established and publicized eligibility requirements, the procedure shall be nondiscriminatory under the Federal and State statutes and regulations and guidelines.

(2) If a school develops a recruitment program, announcements concerning vocational education must exemplify freedom from occupational stereotypes and to the extent possible the philosophy of equal access.

(3) Guidance personnel shall provide to students the information necessary to make informed decisions regarding the selection of appropriate vocational technical education programs and discuss the importance of high school academic achievement and postsecondary education and training to career success.

(4) Denial of admission may be appealed to the board or joint operating board of the school making the decision. If the board refuses admission, the student may appeal its decision to the State Board of Vocational Education.

(5) With regard to the placement of students with IEPs or service agreements in vocational programming, faculty from the vocational programs in which students are recommended for placement will participate as members of the IEP and service agreement teams.

(6) IEP and service agreement team meetings, when scheduled by the school district, must give timely notice to the vocational and technical education representative

assigned and shall be attended by the vocational and technical education representative.

§ 339.22. Program content.

(a) *Occupational program requirements.* The primary objectives of an occupational program are to prepare students for employment in high priority occupations supported by local employers, and for successful employment and lifelong learning through acquisition of high-level academic, technical and career development skills, efficient work habits and attitudes about the personal, social and economic significance of work. Occupational programs include vocational agriculture, vocational business education, vocational health occupations, vocational marketing and distributive education, vocational occupational family and consumer sciences, and vocational trade, industrial and technical education. Occupational programs must be standards-based, prepare students for attainment of licensure or industry skill certification or Pennsylvania Skills Certificate, as required, provide extended classroom experience, and meet minimum time requirements. The specific requirements of the foregoing elements are as follows:

(1) *Standards-based.* Programs must have standards-based plans. A standards-based plan is an instructional system that is planned and managed by the teacher, based upon occupational analysis and clearly stated performance objectives that are deemed critical to successful employment as recommended by occupational advisory committees. Occupational tasks recommended by an Occupational Advisory Committee must provide the basis for instruction. The instructional process must derive its content from the task performed in each occupation and job and provide for the assessment of student performance on the basis of preset performance standards. Standards-based plans must include:

(i) *Performance objectives.* A vocational education program must identify performance objectives in accordance with criteria developed by the school entity in cooperation with the Occupational Advisory Committee. The performance objectives consist of the following three parts:

(A) The conditions under which the task will be performed—the materials and supplies provided.

(B) A description of the task.

(C) The standard for how well the task shall be performed.

(ii) *Program plans.* Vocational education program content must be designed in accordance with one of the following standards-based plans:

(A) *Regular occupations.* A plan designed to provide instruction in preparing students for gainful employment in occupations requiring skills learned in one of the vocational education program areas. The development of leadership competencies and positive attitudes towards fulfilling occupational, civic, social and community responsibilities shall be an integral part of this program plan.

(B) *Cluster occupations.* A plan designed to provide basic information and skills for a number of closely related occupations and to develop basic competencies in a variety of jobs within an occupational field. Vocational education planned courses from more than one vocational education field may be offered in order to meet the minimum time requirements. The development of leadership competencies and positive attitudes towards fulfilling occupational, civic, social and community responsibilities shall be an integral part of this program plan.

(2) *Pennsylvania academic standards.* Pennsylvania academic standards under Chapter 4 (relating to academic standards and assessment) shall be integrated within the technical curriculum and instruction.

(3) *CIP Code.* Programs will be identified by CIP code.

(4) *Planned instruction.* Planned instruction must include the integration of academic, career development and technical curricula at the secondary level.

(5) *Occupational analysis.* The occupational analysis conducted by the school entity under § 339.4(a) (relating to program approval) must lead to clearly stated performance objectives deemed critical to successful employment, and assessment of student competencies based upon performance standards.

(6) *Industry standards.* Programs must prepare students to meet industry-defined standards, certifications, regulations or licensing agreements demonstrated through industry assessment, industry credentials, industry certification, license or State assessment.

(7) *License requirements.* Programs designed to provide students with the background to meet certification and licensure requirements must meet the standards of the licensing agency and be supervised or administered according to the certifying or licensing agency, Parts I and II (relating to State Board of Education; and standards). Information on legal requirements or limitations relating to the occupations for which they are preparing shall be given to all students in writing.

(8) *Extended classroom and work-based learning.* The program must provide students an opportunity to acquire experience in appropriate work situations related to their vocational program of study. When the traditional shop or laboratory cannot simulate the work situation, the classroom may be extended to a cooperating agency or business as long as the educational objectives are being met. Health occupations curriculum preparing individuals for direct patient care must provide clinical experience as an integral part of the curriculum.

(9) *Minimum time requirements.*

(i) The school entity may develop vocational education programs for any time length as long as they do not go below the minimums listed in this subsection. Vocational programs may range in duration from 1 year to 4 years, and the following represents the minimum total hours required for a program sequence:

(A) *One year sequence.* A vocational technical education program existing in the 12th grade when students have met their academic graduation requirements but require technical courses only, and lasting 1 year in duration must provide a minimum total of 720 hours of vocational program instruction by the end of the program year.

(B) *Two year sequence.* A vocational technical education program consisting of 2 sequential years must provide a minimum total of 720 hours of vocational program instruction by the end of the program sequence.

(C) *Three year sequence.* A vocational technical education program consisting of 3 sequential years must provide a minimum total of 1,080 hours of vocational program instruction by the end of the program sequence.

(D) *Four year sequence.* A vocational technical education program consisting of 4 sequential years must provide a minimum total of 1,320 hours of vocational program instruction by the end of the program sequence.

(ii) The following requirements shall be considered in planning vocational education programs based on the minimum time requirements listed in subparagraph (i):

(A) Vocational education credits may be given for hours spent in supervised agricultural experience, cooperative clinical experiences and other supervised occupational experience occurring during or after the school day as defined in the Public School Code.

(B) A minimum of two planned courses shall be operated per year. These two planned courses shall be skilled courses.

(C) Sequences shall be offered in consecutive years and the last year of the program will conclude in the twelfth grade.

(D) This section includes the minimum requirements for a program to be eligible for vocational reimbursement. It is recognized that selected vocational programs may require more than the minimum hours to offer an effective education program.

(b) *Exceptional programs requirements.* Exceptional programs could include any of the occupational areas defined in this section. See subsection (a). An exceptional program will be approved to address special needs documented by the school entity. The program content shall be designed in accordance with one of the following standards-based plans:

(1) *Special vocational.* A plan designed to meet the vocational education requirements of special needs students in accordance with a least restrictive environment and their IEPs.

(2) *Experimental.* Special pilot, experimental, exemplary or innovative programs, which do not fit within the structure of any of the plans, may be approved on an annual basis after review by the Secretary.

(c) *Diversified occupations program requirements.* Diversified occupations programs may include any of the occupational areas defined in subsection (a) or other occupational areas not offered at the comprehensive high schools or AVTS. The diversified occupations program shall be available as a 1-year or 2-year program. This program is for 11th and 12th grade students who are unable to gain admission to a vocational program due to excessive numbers of applicants, inability to meet entrance requirements for other existing vocational programs, or lack of specific vocational areas offered at the comprehensive high school or participating AVTS. When diversified occupations programs are provided, they shall be planned in accordance with the student's stated career objective and include:

(1) Work-based learning experiences held at a school-approved worksite.

(2) A training plan and a training agreement shall be developed with the employer and available on file with both the school and the employer. The training agreement and training plan must be signed by the student, parent/guardian, school officials and cooperating employer.

(3) School-based, academic and career-specific instruction.

(4) One planned course—equal to one unit of credit—of general related theory or technical related content, or both, per year. To meet this requirement, the school district operated diversified occupations student shall meet with his teacher-coordinator for at least one 40 to 45 minute period per day or a minimum of 3 hours per week. To meet this requirement at a career and technical center

operated program, the diversified occupations student shall meet with his teacher-coordinator for at least one 40 to 45 minute period per week.

(5) Payment of the existing legal wage.

(6) Provision for administration, supervision and monitoring by a certified teacher in cooperation with the employer.

(7) Provision of work site supervision by an experienced person, and the student has had an opportunity to perform a variety of work assignments.

(8) A certified teacher to manage the program.

(9) Provision for coordination of work site activities of at least 1/2 hour per week per student, including work site visits and observations, as well as preparation for the related in-school instruction.

(10) Students shall be legally employed a minimum of 15 hours a week during the school year. Graduation credits can be awarded for hours worked outside of school hours.

(11) Students shall be legally employed a minimum of 150 school days to be eligible for the Department reimbursement.

(12) Recognition and high school credit for the student's participation in the cooperative education diversified occupations program.

(13) Compliance with Federal and State statutes.

(14) Insurance protection for both the school and students.

(d) *Nonoccupational program requirements.*

(1) *Family and consumer sciences education programs.* The family and consumer sciences education programs must operate in a comprehensive high school.

(2) *Primary objectives.* The primary objectives of family and consumer sciences education programs are to:

(i) Integrate within the technical curriculum instruction aligned with Pennsylvania academic standards under Chapter 4.

(ii) Prepare both males and females with knowledge and skills required to meet the approved Family and Consumer Sciences Academic Standards.

(iii) Provide knowledge and skills that are interrelated and necessary for the optimum quality of life for individuals and families.

(e) *Postsecondary education and training.* Articulation of the secondary program of studies with postsecondary institutions, technical institutes and industry partners who offer registered apprenticeship, certificate or degree programs shall occur.

§ 339.23. Vocational education safety.

Vocational education shall be provided consistent with safety standards in the following areas:

(1) Safety instruction shall be practiced in the laboratory and classroom.

(2) Equipment guards and personal safety devices shall be in place and used.

(3) Class enrollment shall be safe relative to classroom or laboratory size and number of workstations.

(4) Workstations shall be barrier-free, assuring accessibility and safety under section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. § 794) and 34 CFR 104.22(a)

(relating to existing facilities) and the Americans With Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12213).

(5) Provisions shall be made for safe practices to meet individual educational needs of handicapped persons under section 504 of the Rehabilitation Act of 1973, 34 CFR 104.33(b) (relating to free appropriate public education), OCR Guidelines, Title VI of the Civil Rights Act of 1964 (42 U.S.C.A. §§ 2000d—2000d-4a) and 45 CFR Part 80 (relating to nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964).

(6) Storage of materials and supplies must meet 34 Pa. Code Part I (relating to Department of Labor and Industry).

(7) Safety practices must meet State and Federal regulations.

§ 339.29. Cooperative vocational education.

If cooperative vocational education is provided, it shall be planned in accordance with the stated career or occupational objectives of the student and include:

(1) Related learning experiences held at a school-approved work station.

(2) A training plan and a training agreement developed with the employer and available on file with both the school entity and the employer. The training agreement and training plan must be signed by the student, parent/guardian, school officials and cooperating employer.

(3) Payment of the existing legal wage when applicable under section 206 of the Fair Labor Standards Act of 1938 (29 U.S.C.A. § 206) and The Minimum Wage Act of 1968 (43 P. S. §§ 333.101—333.115).

(4) Provision for administration and supervision by school staff members in cooperation with the employer.

(5) A minimum of one onsite student evaluation by a certified teacher for on-the-job activities per month.

(6) At least 45 minutes per week, or 90 minutes every other week, for students to meet with their vocational instructor to discuss job problems and related information.

(7) Credit for cooperative vocational education work experience.

(8) A certified teacher coordinating the program.

(9) Compliance with Federal and State statutes.

(10) Insurance protection for both the school and students.

§ 339.30. Student organizations.

(a) CTSOs shall be an integral part of the respective vocational education program. Instruction must provide for the development of human relations skills; knowledge of occupations; leadership competencies and positive attitudes towards fulfilling occupational, civic, social and community responsibilities.

(b) CTSOs recognized in this Commonwealth are those recognized as CTSOs career and technical student organizations by the United States Department of Education.

(c) CTSOs in this Commonwealth include:

(1) Distributive Education Clubs of America (DECA).

(2) Future Business Leaders of America (FBLA).

(3) Family, Career and Community Leaders of America (FCCLA).

- (4) Health Occupations Students Organization (HOSA).
- (5) National FFA Organization (FFA).
- (6) National Young Farmer Educational Association (NYFEA).
- (7) SkillsUSA (formerly Vocational Industrial Clubs of America).
- (8) Technology Student Association (TSA).
- (9) Other organizations that are approved by the United States Department of Education in the future.
- (d) Members of CTSOs shall be under the direct supervision of certified professional education personnel as assigned by the joint operating committee or school board.
- (e) CTSOs must hold a charter between their National organization and the Department.

GUIDANCE

§ 339.31. Plan.

There shall be a written plan on file, approved by the local board of school directors, for the development and implementation of a comprehensive, sequential program of guidance services for kindergarten through 12th grade. The plan must include procedures to provide for guidance services to AVTSs. Upon request, the plan shall be submitted to the Secretary.

§ 339.32. Services.

The plan shall be designed to promote equal opportunity and include the following guidance service areas:

- (1) Assistance to students in selecting vocational curricula that meet their needs and address their interests. School entity counseling services must ensure that counselors do not direct or urge any student to enroll in a particular career or program, or measure or predict a student's prospects for success in any career or program based upon the student's race, color, national origin, sex or disabilities. School entities cannot counsel students with disabilities toward more restrictive career objectives than students without disabilities and with similar abilities and interests.
- (2) Assistance for all vocational students in making educational career plans including high school academic and technical preparation and postsecondary education and training, and adjustments through the use of individual and group counseling and appropriate student assessment procedures.
- (3) Provision of occupational and educational information needed for realistic career planning in an organized, systematic fashion for students, parents and teachers.
- (4) Maintenance of cumulative records and the use, exchange and release of student information in accordance with §§ 12.31 and 12.32 (relating to general requirements; and elements of the plan).
- (5) Adequate orientation procedures for vocationally oriented pupils.
- (6) Support of a placement service that is developmental and makes provisions for the transition from school to the world of work.
- (7) Formal and informal consultation with teachers, administrators and other school staff.
- (8) A school-initiated system of parental involvement.
- (9) Liaison activities with community agencies.
- (10) Assistance in the conduct of follow-up studies to determine the effectiveness of the curriculum.

PERSONNEL

§ 339.41. Certification.

Certification requirements include:

(1) *Professional employees.* Professional staff shall meet standards as defined in Chapters 49 and 354 (relating to certification of professional personnel; and preparation of professional educators) as well as certification and professional standards and requirements for teachers under Article XVII of the School Code (24 P. S. §§ 12-1201—12-1215) and the Professional Educator Discipline Act (24 P. S. §§ 2070.1—2070.18).

(2) *In-service plan.* Local education agencies shall have a plan on file that ensures professional personnel will keep up with the technology and remain current with practices and standards of their professional areas.

(3) *Temporary certification.* The Secretary may issue a temporary letter of certification for a resource specialist to provide supplemental vocational instruction under the supervision of a certified teacher. The services must be part-time and may not exceed 300 clock hours during a school year.

(4) *Chief administrator of the area school.* The School Code provides that area vocational-technical boards shall designate the executive director of the intermediate unit or a chief school administrator of one of the participating school districts to serve in the capacity of the chief administrator of the area school.

(5) *Vocational supervision.* A vocational supervisory certificate or vocational director certificate is mandated when 50% or more of an assignment is related to supervising vocational education programs.

FACILITIES

§ 339.51. Learning environment.

The requirements for the learning environment are as follows:

(1) *Size of laboratory.* Shop laboratory size must be adequate as required by State licensing boards, accreditation providers and industry certification standards and take into consideration the recommendations of the occupational advisory committee.

(2) *Type of equipment.* Refer to § 339.4(b)(5) (relating to program approval) for requirements related to equipment.

(3) *Number of workstations.* Students assigned may not be greater than the number of workstations available.

(4) *Safety of students.* Refer to § 339.23 (relating to vocational education safety) for safety of students requirements.

§ 339.53. Contemporary equipment.

The equipment and facilities must meet industry standards based on occupational advisory committee recommendations. Equipment will be deemed to meet industry standards if it is compatible, insofar as practical, to that used in occupations for which vocational-technical education is provided.

STATE VOCATIONAL FUNDING

§ 339.54. Subsidy on behalf of secondary vocational students.

Only students who meet the definition of concentrators shall be included in the calculation of vocational average daily membership under the School Code.

§ 339.55. Payment on behalf of TIs.

The Commonwealth will pay every school district having out-of-school youth or adults enrolled in a TI program approved by the Department under § 339.57 (relating to application for establishment; program approval and reapproval; termination), for each student in average daily membership, 1/3 of current expense per student as provided in the approved budget, or the per student cost for current expense, whichever is less. Reimbursement will be made in the subsequent State fiscal year and based upon data supplied to the Department by the TI. The remainder of the cost of total current expense shall be borne by the district of residence, or by the district of residence and the student. The student will not bear more than 1/3 of the current expense per student.

TIs**§ 339.56. Authority.**

(a) Article XVIII of the School Code (24 P. S. §§ 18-1801—18-1855) authorizes school boards to establish and operate TIs for the purpose of offering post-high school programs to prepare out of school youths and adults for occupations requiring technical training.

(b) TIs shall be regulated by Article XVIII of the School Code, this chapter and by procedural guidelines prepared by the Department and adopted by the State Board for Vocational Education.

(c) Section 1841 of the School Code (24 P. S. § 18-1841) authorizes the establishment of a TI by a majority vote in convention or by mail called for by:

(1) Boards of public education.

(2) Intermediate units' board of directors through a certified vote. (See section 1844(a) and (d) of the School Code (24 P. S. § 18-1844 (a) and (d)) regarding establishment of schools and institutes. State Vocational Board approval is required prior to the establishment of a TI.

(d) Participating school districts shall have authority to enter into written agreements establishing their rights and obligations. This agreement may not be changed without the consent of each participating school district's board of directors as determined by a majority vote, in accordance with section 1850.1(a) of the School Code (24 P. S. § 18-1850.1(a)) regarding organization and operation of schools and institutes.

(e) TIs have the authority to offer technical certificates. TIs may not grant degrees, but shall develop articulation agreements with degree-granting institutions to facilitate transfer of student credit.

(f) This section and §§ 339.57 and 339.58 (relating to TIs) apply only to the establishment of TIs as authorized by section 18-1855 of the School Code (24 P. S. § 18-1855).

§ 339.57. Application for establishment; program approval and reapproval; Termination.

(a) *Establishment.* To be eligible for funding and establishment as a TI under this chapter, an applicant must obtain approval from the Department. Application shall be made on forms approved by the Department which includes:

(1) A statement of philosophy documenting how the mission fulfills the educational needs of this Commonwealth.

(2) Strategic plans, including needs assessment; action plans; coordination and articulation plans among secondary, postsecondary, adult and apprenticeship programs;

professional staff development plan; written plan for job placement; and a plan for repair, replacement and addition of instructional equipment. Action plans must include formal strategies and accountability plans for ensuring that all students are equipped with the academic and occupational skills they need for career success and lifelong learning.

(3) Evidence of a local advisory committee, which has the function of advising the administration of the institute concerning the needs of the institute and the needs of business and industry as they relate to strategic planning, educational planning and recruitment of personnel. Evidence must be given that the local advisory committee will hold at least one meeting each year. This is evidenced by agendas and minutes of local advisory committee meetings.

(4) Evidence that nondiscriminatory written admissions policies exist, are publicized and are effective. This is evidenced in the school entity's policy manual and publications such as the admissions handbook; course announcements, materials, brochures, and similar materials that convey the philosophy of equal access to students considering enrollment. Once established, a TI shall demonstrate effectiveness of admissions policies through disaggregated student enrollment data.

(5) Evidence that information related to guidance counseling, placement and financial aid information shall be available to all students.

(b) *Program approval and reapproval.* New, expanded or revised programs shall be approved by the Secretary prior to operation. A program will not receive vocational education payments under § 339.55 (relating to payment on behalf of TIs) until it has been approved by the Secretary under this chapter. A TI shall apply for program approval or reapproval in the same manner as provided under § 339.4 (relating to program approval).

(c) *Licensure and certification.* Instructional programs shall be designed to meet licensure, certifications or examinations administered by State or Federal regulatory bodies, trade associations or professional organizations.

(d) *Strategic plan.* Each TI shall submit to the Department for review and approval a strategic plan no fewer than every 5 years.

(e) *Program termination.* Programs may be terminated at any time by the TI board. Any student enrolled in the program being terminated shall be given a reasonable opportunity to complete it.

(f) *Documentation.* TIs shall retain documentation on file supporting each item in this section for 3 years and the documents shall be made available to the Department upon request.

§ 339.58. Operation.

(a) The TI board may delegate operation to:

(1) A joint committee elected by the participating boards in accordance with sections 1850.1—1850.3 of the School Code (24 P. S. §§ 18-1850.1—18-1850.3).

(2) An intermediate unit board of directors in accordance with section 1850.2 of the School Code (24 P. S. § 18-1850.2).

(b) The TI board has the following powers:

(1) Budgeting.

(2) Setting institute policies.

- (3) Employing supervisors and teachers.
- (4) Buying, building, or renting buildings and land.

EVALUATORS

§ 339.61. Evaluation.

(a) *General rule.* Approved vocational education curriculum shall be subject to review by the Secretary to determine compliance with Chapter 4 (relating to academic standards and assessment) and this chapter.

(b) *Team.* Evaluations shall be performed by vocational educators and other competent evaluators, as selected by the Department.

(c) *Report.* The Department evaluation team will file a report with the board of school directors and area AVTS board of directors within 30 calendar days after the onsite evaluation.

(d) *Content.* The report will identify areas that are not in compliance with Chapter 4 and this chapter and other applicable statutes, regulations and guidelines.

(f) *Noncompliance.* If an evaluation reveals noncompliance with this title, the school entity shall develop a

compliance plan in accordance with § 339.62 (relating to noncompliances; appeal process).

§ 339.62. Noncompliance; appeal process.

(a) *Plan.* If the evaluation report identifies areas of noncompliance, the board of school directors or area vocational-technical board of school directors shall file a plan for correcting the noncompliance identified in the report with the Department.

(b) *Reevaluation.* Following a submission of the plan required in subsection (a), the Department will conduct a reevaluation to determine whether to issue, conditionally withhold, or withhold approval that will terminate State and Federal funding to the program.

(c) *Hearing.* The decision to withhold approval and the subsidies related to that approval will be an adjudication under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and notices, hearings and appeals will be conducted in accordance therewith.

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