

RULES AND REGULATIONS

Title 22—EDUCATION

STATE BOARD OF EDUCATION

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

Strategic Planning

The State Board of Education (Board), under the authority of sections 2603-B and 2604-B of the Public School Code of 1949 (code) (24 P.S. §§ 26-2603-B and 26-2604-B), amends §§ 12.41, 14.104, 16.4, 49.16 and 49.17 to read as set forth in Annex A.

Summary

The final-form rulemaking published at 44 Pa.B. 1131 (March 1, 2014) made substantive changes to Chapter 4 (relating to academic standards and assessment). Among several amendments to Chapter 4, that final-form rulemaking deleted the requirement in § 4.13 (relating to strategic plans) that school districts, area vocational-technical schools and charter schools submit strategic plans every 6 years.

Section 4.13 now provides for transitions from strategic plans to different types of specific plans required under other existing regulations. These other plans are in Chapters 12, 14, 16 and 49. Provisions of these four chapters retained language that referenced the strategic planning requirements that are no longer part of Chapter 4. Therefore, technical corrections to these chapters are necessary for consistency with Chapter 4.

Amendments

The amendments in this final-omitted rulemaking update references to § 4.13 in five sections to match the requirements in the corresponding subsections of § 4.13. Changes encompass deletions of references to Chapter 4 that are now inaccurate given the 2014 amendments. The outdated text is replaced with corrected references.

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

Affected Parties

Since the amendments correct inconsistencies between existing regulations and do not make substantive changes, this final-omitted rulemaking does not have impact on potentially affected parties.

Cost and Paperwork Estimates

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

Effective Date

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

Sunset Date

The Board will review the effectiveness of these provisions every 4 years in accordance with its policy and practice respecting all of its regulations. Therefore, a sunset date is not necessary.

Contact Person

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

Final-Omitted Rulemaking

The Board promulgates these amendments as a final-omitted rulemaking because they meet the criteria in section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204(3)), known as the Commonwealth Documents Law (CDL). The amendments conform §§ 12.41, 14.104, 16.4, 49.16 and 49.17 to § 4.13. The substantive change occurred with amendments to Chapter 4 in 2014. This final-omitted rulemaking does not contain substantive changes and includes only minor technical revisions that alleviate possible confusion and align Chapters 12, 14, 16 and 49 with Chapter 4. Therefore, publication of a proposed rulemaking would be, in these circumstances, impracticable, unnecessary and contrary to the public interest.

Regulatory Review

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

Under section 5.1(j.2) of the Regulatory Review Act, on June 29, 2016, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 30, 2016, and approved the final-omitted rulemaking.

Findings

The Board finds that:

(1) Notice of proposed rulemaking is impracticable, unnecessary and contrary to the public interest under section 204(3) of the CDL and the regulation thereunder, 1 Pa. Code § 7.4(3) (relating to omission of notice of proposed rulemaking).

(2) The amendments to the regulations in the manner provided in this final-omitted rulemaking is necessary and appropriate for administration of the code.

Order

Acting under the authority of the code, the Board orders that:

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

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

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

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

KAREN MOLCHANOW,
Executive Director

(*Editor's Note:* See 46 Pa.B. 3894 (July 16, 2016) for IIRC's approval order.)

Fiscal Note: 6-333. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

Subpart A. MISCELLANEOUS PROVISIONS

CHAPTER 12. STUDENTS AND STUDENT SERVICES

SERVICES TO STUDENTS

§ 12.41. Student services.

(a) Each school entity shall prepare a written plan for the implementation of a comprehensive and integrated K-12 program of the student services based on the needs of its students. The plan shall be prepared and revised in accordance with the time frames and procedures described in § 4.13(c) (relating to strategic plans). Services offered by community agencies in public schools shall be coordinated by and under the general direction of the school entity. The plan must include policies and procedures for emergency care and administration of medication and treatment under The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144) and guidelines issued by the Department of Health. The Department of Health guidelines are available from the Division of School Health, Department of Health, P.O. Box 90, Harrisburg, Pennsylvania 17108. A school district that operates a prekindergarten program shall address its prekindergarten program in the plan developed under § 4.13(c). A school entity shall make its student services plan available for public inspection and comment for a minimum of 28 days prior to approval of the plan by the school entity's governing board.

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CHAPTER 14. SPECIAL EDUCATION SERVICES AND PROGRAMS

GENERAL PROVISIONS

§ 14.104. Special education plans.

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

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CHAPTER 16. SPECIAL EDUCATION FOR GIFTED STUDENTS

GENERAL PROVISIONS

§ 16.4. Gifted education plans.

(a) In accordance with § 4.13(e) (relating to strategic plans), each school district shall develop and implement a gifted education plan every 6 years. A school district shall make its gifted education plan available for public inspection and comment for a minimum of 28 days prior to approval of the plan by the school district's board of directors.

(b) Each school district shall address the following in its gifted education plan:

(1) The process for identifying children who are gifted and in need of specially designed instruction.

(2) The gifted special education programs offered.

(c) Each school district shall provide, as the Department may require, reports of students, personnel and program elements, including the costs of the elements, which are relevant to the delivery of gifted education.

Subpart C. HIGHER EDUCATION

CHAPTER 49. CERTIFICATION OF PROFESSIONAL PERSONNEL

Subchapter A. GENERAL PROVISIONS

THE PROGRAM

§ 49.16. Approval of induction plans.

(a) Each school entity shall submit to the Department for approval a plan for the induction experience for first-year teachers (including teachers in prekindergarten programs, when offered), long-term substitutes who are hired for a position for 45 days or more and educational specialists. The induction plan shall be submitted every 6 years as required under § 4.13(b) (relating to strategic plans). The induction plan shall be prepared by teacher or educational specialist representatives, or both, chosen by teachers and educational specialists and administrative representatives chosen by the administrative personnel of the school entity. Newly employed professional personnel with prior school teaching experience may be required by the school entity to participate in an induction program. A school entity shall make its induction plan available for public inspection and comment for a minimum of 28 days prior to approval of the plan by the school entity's governing board and submission of the plan to the Department.

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

(c) The induction plan shall reflect a mentor relationship between the first-year teacher, long-term substitute 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 and must include induction activities that focus on teaching diverse learners in inclusive settings.

§ 49.17. Continuing professional education.

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

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[Pa.B. Doc. No. 16-1209. Filed for public inspection July 15, 2016, 9:00 a.m.]
