

**CHAPTER 237. DEFINITIONS
OF STATUTORY TERMS**

Subchap.		Sec.
A.	DEFINITIONS	237.1

Authority

The provisions of this Chapter 237 issued under section 5(a)(11) of the Public School Code of 1949 (24 P. S. § 12-1255(a)(11)), unless otherwise noted.

Source

The provisions of this Chapter 237 adopted December 24, 1993, effective December 25, 1993, 23 Pa.B. 6069, unless otherwise noted.

Subchapter A. DEFINITIONS

- Sec. 237.1. Purpose.
- 237.2. Scope and effect.
- 237.3. Immorality.
- 237.4. Incompetency.
- 237.5. Intemperance.
- 237.6. [Reserved].
- 237.7. Cruelty.
- 237.8. Negligence.
- 237.9. Crimes involving moral turpitude.
- 237.10. Surrender in lieu of discipline.

Notes of Decisions

Applicability

The definitions in Subchapter A are not applicable in the conduct set forth in the School Code of 1949 (24 P. S. § 11-1122). *Seltzer v. Department of Education*, 782 A.2d 48 (Pa. Cmwlth. 2001).

Deference

While interpretation of the defined terms in Subchapter A by school boards, courts and the Secretary of Education are not binding on the Professional Practices and Standards Commission, the Commission should regard those interpretations as persuasive authority. *Seltzer v. Department of Education*, 782 A.2d 48 (Pa. Cmwlth. 2001).

§ 237.1. Purpose.

(a) Under sections 5(a)(11) and 9.2 of the Professional Educator Discipline Act (act) (24 P. S. §§ 2070.5(a)(11) and 2070.9b), the Professional Standards and Practices Commission (Commission) is vested with the duty and granted the power to discipline professional educators and charter school staff members and to consider the reinstatement applications of professional educators and charter

school staff members who seek to have previously revoked or suspended certificates or eligibility reinstated.

(b) Under the act, the Commission has adopted this subchapter to define terms in section 5(a)(11) of the act which describe the conduct for which discipline of a professional educator or charter school staff member might be imposed by the Commission.

(c) This subchapter is not the sole authority for defining terms under sections 5(a)(11) and 9.2 of the act. Judicial interpretations and adjudications of the Commission will authoritatively define the statutory terms. Judicial decisions and decisions of the Secretary under Article XI, Part C of the Public School Code of 1949 (24 P. S. §§ 11-1121—11-1133) known as the Teachers' Tenure Act and decisions of the Secretary under the Teachers' Tenure Act are not binding upon the Commission but may be regarded as persuasive authority.

(d) The standards and conduct expected of a professional educator are also prescribed by Chapter 235 (relating to Code of Professional Practice and Conduct for Educators), the violation of which may be grounds for discipline.

(e) The definitions found in section 1.1 of the act (24 P. S. § 2070.1b) are incorporated herein by reference.

Authority

The provisions of this § 237.1 amended under sections 5(a)(11) and 9b of the Professional Educator Discipline Act (24 P. S. §§ 2070.5(a)(11) and 2070.9b).

Source

The provisions of this § 237.1 amended December 20, 2002, effective December 21, 2002, 32 Pa.B. 6256. Immediately preceding text appears at serial pages (286661) to (286662).

§ 237.2. Scope and effect.

(a) *Applicability.* This subchapter applies to the terms in sections 5(a)(11) and 9.2 of the Professional Educator Discipline Act (24 P. S. §§ 2070.5(a)(11) and 2070.9b), and proceedings before the Commission. This subchapter does not apply to similar or identical terms used in other regulations or statutes, including section 1122 of the Public School Code of 1949 (24 P. S. § 11-1122), or to proceedings before a board of school directors or the Secretary under Article XI of the Public School Code of 1949 (24 P. S. §§ 11-1121—11-1133), known as Teachers Tenure Act, or to proceedings before the Secretary under section 2(i) and (j) of the act of May 29, 1931 (P. L. 210, No. 126), and section 1211 of the Public School Code of 1949, which were partially preserved from repeal by section 2 of the act of April 26, 1990 (P. L. 122, No. 33).

(b) *Statewide effect.* The act and this subchapter will be construed and applied by the Commission in the context of the Commission's power and duty to determine the present, continuing and future fitness and ability of a person to properly perform in this Commonwealth the duties and responsibilities of a professional educator or charter school staff member.

Authority

The provisions of this § 237.2 amended under sections 5(a)(11) and 9b of the Professional Educator Discipline Act (24 P. S. §§ 2070.5(a)(11) and 2070.9b).

Source

The provisions of this § 237.2 amended December 20, 2002, effective December 21, 2002, 32 Pa.B. 6256. Immediately preceding text appears at serial page (286662).

§ 237.3. Immorality.

Immorality is conduct which offends the morals of the Commonwealth and is a bad example to the youth whose ideals a professional educator or charter school staff member has a duty to foster and elevate.

Authority

The provisions of this § 237.3 amended under sections 5(a)(11) and 9b of the Professional Educator Discipline Act (24 P. S. §§ 2070.5(a)(11) and 2070.9b).

Source

The provisions of this § 237.3 amended December 20, 2002, effective December 21, 2002, 32 Pa.B. 6256. Immediately preceding text appears at serial page (286662).

§ 237.4. Incompetency.

Incompetency is a continuing or persistent mental or intellectual inability or incapacity to perform the services expected of a professional educator or a charter school staff member.

Authority

The provisions of this § 237.4 amended under sections 5(a)(11) and 9b of the Professional Educator Discipline Act (24 P. S. §§ 2070.5(a)(11) and 2070.9b).

Source

The provisions of this § 237.4 amended December 20, 2002, effective December 21, 2002, 32 Pa.B. 6256. Immediately preceding text appears at serial page (286663).

§ 237.5. Intemperance.

Intemperance is a loss of self-control or self-restraint, which may result from excessive conduct.

§ 237.6. [Reserved].**Source**

The provisions of this § 237.6 reserved December 20, 2002, effective December 21, 2002, 32 Pa.B. 6256. Immediately preceding text appears at serial page (286663).

§ 237.7. Cruelty.

Cruelty is the intentional, malicious and unnecessary infliction of physical or psychological pain upon living creatures, particularly human beings.

§ 237.8. Negligence.

(a) *Definition.* Negligence is continuing or persistent action or omission in violation of a duty.

(b) *Duty.* A duty may be established by law, by promulgated school rules, policies or procedures, by express direction from superiors or by duties of professional responsibility, including duties prescribed by Chapter 235 (relating to Code of Professional Practice and Conduct for Educators).

Authority

The provisions of this § 237.8 amended under sections 5(a)(11) and 9b of the Professional Educator Discipline Act (24 P. S. §§ 2070.5(a)(11) and 2070.9b).

Source

The provisions of this § 237.8 amended December 20, 2002, effective December 21, 2002, 32 Pa.B. 6256. Immediately preceding text appears at serial page (286663).

§ 237.9. Crimes involving moral turpitude.

(a) *Definition.* Moral turpitude includes the following:

(1) That element of personal misconduct in the private and social duties which a person owes to his fellow human beings or to society in general, which characterizes the act done as an act of baseness, vileness or depravity, and contrary to the accepted and customary rule of right and duty between two human beings.

(2) Conduct done knowingly contrary to justice, honesty or good morals.

(3) Intentional, knowing or reckless conduct causing bodily injury to another or intentional, knowing or reckless conduct which, by physical menace, puts another in fear of imminent serious bodily injury.

(b) *Elements of the crime.* A determination of whether a crime involves moral turpitude will be determined based solely upon the elements of the crime. The underlying facts or details of an individual criminal charge, indictment or conviction are not relevant to the issue of moral turpitude.

(c) *Specific crimes.* Crimes involving moral turpitude per se include the following:

(1) An offense under 18 Pa.C.S. (relating to crimes and offenses) listed in section 111(e)(1) of the Public School Code of 1949 (24 P. S. § 1-111(e)(1)).

(2) An offense designated as a felony under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144). At any time subsequent to the adoption of this chapter if section 111(e)(1) is amended to add or delete crimes, the Commission will consider each additional or deleted

crime to determine if the crime involves moral turpitude per se and will vote at a public meeting whether the crime will be designated as involving moral turpitude per se for purposes of cases coming before the Commission under section 9.2 of the Professional Educator Discipline Act (24 P. S. § 2070.9b) (act).

(3) An offense of a criminal law of the Commonwealth, the Federal government or another state or territory of the United States, or another nation, an element of which offense is delivery of a controlled substance or possession of a controlled substance with intent to deliver.

(4) A State offense, out-of-State offense or Federal offense or another nation, similar in nature to crimes listed in paragraphs (1)—(3).

(d) *Certified copy.* For purposes of section 9.2 of the act and this section, a document certified by the clerk of court or other judicial officer designated by law as the official custodian of criminal court records or certified by the official custodian of the appropriate licensing authority in another state, territory or nation will be treated by the Commission as a certified copy of the document.

(e) *Indictment.* Indictment under section 9.2 of the act includes a criminal complaint, criminal information or other similar document filed in a court of competent jurisdiction.

(f) *Conviction.* The term conviction under section 9.2 of the act is defined to mean the verdict, judgment or sentence or the entry of an order which constitutes a final order by the sentencing court. A plea of guilty or nolo contendere constitutes a conviction for purposes of this section.

Authority

The provisions of this § 237.9 amended under sections 5(a)(11) and 9b of the Professional Educator Discipline Act (24 P. S. §§ 2070.5(a)(11) and 2070.9b).

Source

The provisions of this § 237.9 amended December 20, 2002, effective December 21, 2002, 32 Pa.B. 6256. Immediately preceding text appears at serial pages (286663) to (286664).

Notes of Decisions

Illustrative Cases

Because someone is convicted of simple assault in the context of a “scuffle entered into by mutual consent,” the elements of the crime do not necessarily satisfy the definition of moral turpitude set forth in the regulations; therefore, the Professional Standards and Practice Commission’s order granting summary judgment was reversed because the Department of Education may not revoke Teacher’s certification without a hearing. *Bowalick v. Commonwealth*, 840 A.2d 519, 525 (Pa. Cmwlth. 2004)

Teacher’s assertion that, even if all facts contained within the Notice of Charges were deemed admitted, the teacher was entitled to a pre-order hearing to determine whether the crimes pled guilty to were, in fact, crimes of moral turpitude was rejected. *Kinniry v. Professional Standards & Practices Commission*, 678 A.2d 1230 (Pa. Cmwlth. 1996).

§ 237.10. Surrender in lieu of discipline.

A professional educator's teaching certificate or a charter school staff member's eligibility to teach will be considered surrendered in lieu of discipline whenever the certificate or eligibility is surrendered to the Department after a local school entity furnishes the educator or charter school staff member with a written statement of charges for dismissal under section 1127 of the Public School Code of 1949 (24 P. S. § 11-1127), or after the educator or charter school staff member is discharged for cause by a local school entity, or after the Department receives a report concerning the educator or charter school staff member under section 9.1 of the Professional Educator Discipline Act (24 P. S. § 2070.9b) (act), or after the Department receives a complaint concerning the educator or charter staff member under section 9 of the act (24 P. S. § 2070.9).

Authority

The provisions of this § 237.10 issued under sections 5(a)(11) and 9.2 of the Professional Educator Discipline Act (24 P. S. §§ 2070.5(a)(11) and 2070.9b).

Source

The provisions of this § 237.10 adopted December 20, 2002, effective December 21, 2002, 32 Pa.B. 6256.

[Next page is 238-1.]