

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2189 Session of
2000

INTRODUCED BY STAIRS, COLAFELLA, FLEAGLE, HERMAN, SCHULER,
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JANUARY 25, 2000

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 22, 2000

AN ACT

1 Amending the act of December 12, 1973 (P.L.397, No.141),
2 entitled "An act relating to certification of teachers in the
3 public schools of the Commonwealth and creating a
4 Professional Standards and Practices Commission," providing
5 for a short title; further providing for definitions relating
6 to professional standards and requirements, for the
7 Professional Standards and Practices Commission, for its
8 membership and qualifications, for its powers and duties, for
9 its organization and meetings and for complaints; providing
10 for the imposition of discipline against professional
11 educators; further providing for confidentiality, for duties
12 of local school board officials, for department action after
13 investigation, for hearings, for decisions by hearing
14 officers, for appeals, for reinstatement and for unauthorized
15 release of information; providing for immunity from
16 liability; further providing for commission proceedings and
17 procedures; and providing for charter school staff members.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. Section 1 of the act of December 12, 1973
21 (P.L.397, No.141), referred to as the Teacher Certification Law,
22 is repealed.

23 Section 2. The act is amended by adding sections to read:

1 Section 1.1. Short Title.--This act shall be known and may
2 be cited as the Professional Educator Discipline Act.

3 Section 1.2. Definitions.--When used in this act, the
4 following words and phrases shall have the following meanings:

5 "Administrator" shall mean a person who is a commissioned
6 officer or holds a valid administrative certificate.

7 "Charter school" shall mean a school established pursuant to
8 Article XVII-A of the act of March 10, 1949 (P.L.30, No.14),
9 known as the "Public School Code of 1949."

10 "Charter school staff member" shall mean an individual
11 employed by a charter school in a position for which State
12 certification would be required in a public school other than a
13 charter school, but who is not required to hold State
14 certification under section 1724-A of the act of March 10, 1949
15 (P.L.30, No.14), known as the "Public School Code of 1949." The
16 term includes an individual who is the chief administrator or
17 individual with primary responsibility for the administration of
18 the charter school.

19 "Commission" shall mean the Professional Standards and
20 Practices Commission.

21 "Department" shall mean the Department of Education.

22 "Discipline" shall mean any one of the following actions:

23 (1) Issue a private reprimand.

24 (2) Issue a public reprimand.

25 (3) Direct the department to suspend the certificate of a
26 professional educator.

27 (4) Direct the department to revoke the certificate.

28 (5) For a charter school staff member, the term shall
29 include an order suspending the person's eligibility to be
30 employed by a charter school or prohibiting the person from

1 being employed by a charter school.

2 (6) Accept a professional certificate surrendered in lieu of
3 discipline.

4 The commission may require a professional educator to meet
5 certain conditions or take corrective action in conjunction with
6 any discipline.

7 "Educational specialist" shall mean a person who holds an
8 educational specialist certificate issued by the Commonwealth,
9 including a certificate endorsed in the area of elementary
10 school counselor, secondary school counselor, social
11 restoration, school nurse, home and school visitor, school
12 psychologist, dental hygienist, instructional technology
13 specialist or nutrition service specialist.

14 "Professional educator" shall mean a person who is
15 certificated as a teacher, educational specialist or an
16 administrator in the Commonwealth.

17 "School entity" shall mean a school district, intermediate
18 unit or area vocational-technical school, CHARTER SCHOOL, <—
19 Scotland School for Veterans' Children, Scranton State School
20 for the Deaf and Thaddeus Stevens College of Technology.

21 "Secretary" shall mean the Secretary of Education.

22 "Sexual abuse or exploitation" shall mean the employment,
23 use, persuasion, inducement, enticement or coercion of a child
24 or student to engage in, or assist any other person to engage
25 in, any sexually explicit conduct, ~~including~~ OR A SIMULATION OF <—
26 ANY SEXUALLY EXPLICIT CONDUCT FOR THE PURPOSE OF PRODUCING A
27 VISUAL DEPICTION, INCLUDING PHOTOGRAPHING, VIDEOTAPING, COMPUTER
28 DEPICTING OR FILMING OF ANY SEXUALLY EXPLICIT CONDUCT OR conduct
29 that constitutes an offense under 18 Pa.C.S. Ch. 31 (relating to
30 sexual offenses) or section 6312 (relating to sexual abuse of

~~children) or the simulation of any sexually explicit conduct,
including, but not limited to, engaging in sexually explicit
conduct or the simulation of sexually explicit conduct if the
person knows or has reason to know that the conduct is being
photographed, videotaped, depicted on computer or filmed.~~

~~CHILDREN) OR OTHER FORMS OF SEXUAL EXPLOITATION OF CHILDREN OR
STUDENTS.~~

"State Board" shall mean the State Board of Education.

"Teach" shall mean to engage in the practice of teaching in
the public schools of the Commonwealth or to provide related
educational specialist, administrative or supervisory services
in such schools.

"Teacher" shall mean a person who holds a valid Pennsylvania
teaching certificate.

Section 3. Section 3 of the act, amended April 11, 1990
(P.L.122, No.33), is amended to read:

Section 3. Professional Standards and Practices
Commission.--(a) There is hereby created a Professional
Standards and Practices Commission consisting of thirteen
members appointed by the Governor with the advice and consent of
a majority of the members elected to the Senate.

(b) The term of office of members of the commission shall be
three years except that:

(1) the terms of office of four members appointed in the
calendar year [1990] ~~1999~~ 2000 shall expire on the third Tuesday
of January [1993.] ~~2000~~ 2001;

(2) the terms of office of four members appointed in the
calendar year 1999 2000 shall expire on the third Tuesday of
January 2001 2002; and

(3) the terms of office of five members appointed in the

1 calendar year ~~1999~~ 2000 shall expire on the third Tuesday of <—
2 January ~~2002~~ 2003. <—

3 (c) Vacancies shall be filled for an unexpired term in the
4 same manner as original appointments. No person shall serve for
5 more than two consecutive terms as a member of the commission.
6 The Governor may remove any member from the commission for
7 misconduct or malfeasance in office, incapacity, or neglect of
8 duty. All members of the commission shall be residents of the
9 Commonwealth of Pennsylvania.

10 Section 4. Sections 4, 5, 6 and 9 of the act, amended or
11 added December 14, 1989 (P.L.612, No.71), are amended to read:

12 Section 4. Membership and Qualifications.--(a) The
13 membership of the Professional Standards and Practices
14 Commission shall consist of:

15 (1) Seven classroom teachers, including one educational
16 specialist, broadly representative of the teaching profession
17 from public schools.

18 (2) Three administrators from public schools, at least one
19 of whom shall be a commissioned officer and one a principal.

20 (3) One administrator from an approved institution of higher
21 learning in the Commonwealth offering approved teacher education
22 programs.

23 (4) Two members from the general public, at least one of
24 whom shall be an elected public school director.

25 (b) Except for the representatives of the general public,
26 the Governor in making appointments shall consider
27 recommendations from panels of nominees submitted by Statewide
28 organizations of professional educators which certify that the
29 panels include only representatives of the category of
30 professional personnel for which the panel or panels of nominees

1 are submitted. However, the Governor shall not be limited to
2 nominating members of Statewide organizations for appointments
3 to the commission.

4 (c) All members of the commission except the persons
5 representing the general public shall have been actively engaged
6 in teaching or providing related educational, administrative or
7 supervisory services in a public school or approved institution
8 of higher education with approved teacher education programs for
9 at least five of the eight years immediately preceding their
10 appointment. A person appointed to the commission who leaves the
11 Commonwealth to become domiciled in another state [or whose
12 employment status changes to a category different from that for
13 which he was appointed] shall have his position on the
14 commission deemed vacated. A person whose status changes to a
15 category different from that for which that person was appointed
16 may continue to serve on the commission for the remainder of
17 that person's appointment.

18 (d) The chairman of the State Board of Education, or a
19 member of the board designated by the chairman, shall be an ex
20 officio member of the commission without voting privileges.

21 (e) The members of the commission, employees of the
22 commission and agents of the commission shall in all of their
23 deliberations consider the public interest.

24 Section 5. Power and Duties.--(a) The Professional
25 Standards and Practices Commission shall have the power and its
26 duty shall be:

27 (1) To recommend to the State Board of Education rules and
28 regulations defining positions for which certification should be
29 required and criteria to determine qualifications, consistent
30 with this act, necessary to hold such a certificate.

1 (2) To recommend to the State Board of Education rules and
2 regulations providing for making a certificate permanent upon
3 evidence of such teaching experience and additional preparation
4 as may by rule be required.

5 (3) To recommend to the State Board of Education rules and
6 regulations providing for the Department of Education
7 investigation and determination of the acceptability of programs
8 of professional education in colleges and universities of this
9 Commonwealth issuing degrees to persons who may desire to teach
10 in the schools of this Commonwealth. The commission may
11 recommend as its own, with or without modification, standards
12 used by other organizations engaged in the evaluation of teacher
13 preparation programs. In establishing standards pursuant to this
14 clause, the commission shall consider, among other factors, the
15 following:

16 (i) Ongoing research and developing theories in education.

17 (ii) The knowledge and skills necessary to effectively
18 perform professional education functions.

19 (iii) The liberal arts and general education requirements
20 that are the foundation of a teacher preparation program.

21 (iv) The value of student teacher, laboratory work and other
22 professional experience as preparation for certification.

23 (v) The cultural and demographic diversity of relevant
24 student populations.

25 (vi) Other interests of the public.

26 The commission shall assess the effectiveness of educator
27 preparation programs and recommend changes to the State Board of
28 Education as indicated by such evaluations.

29 (4) To recommend to the State Board of Education changes in
30 teacher education programs based on commission conducted

1 assessments of these programs.

2 (5) To recommend to the State Board of Education rules and
3 regulations providing for acceptance or approval of certificates
4 to teach issued by other states, countries and bodies.

5 (6) To recommend to the State Board of Education rules and
6 regulations providing for the department to enter into
7 agreements with agencies of other states for reciprocal approval
8 of teacher preparation programs.

9 (7) To recommend to the State Board of Education rules and
10 regulations governing examinations for the initial certification
11 of teachers.

12 (8) To cooperate with a national board for professional
13 education certification recognized by the commission to such
14 degree as, in the commission's judgment, shall bring advantage
15 to the Commonwealth.

16 (9) To establish procedures for conducting hearings pursuant
17 to section 13 and for hearings regarding reinstatement of
18 certificates.

19 (9.1) To adopt requirements regarding the submission of
20 reports by the department on the processing of complaints in
21 order to ensure the timely and effective resolution of
22 complaints.

23 (10) To adopt [by July 1, 1991,] and maintain a code for
24 professional practice and conduct, pursuant to the act of July
25 31, 1968 (P.L.769, No.240), referred to as the Commonwealth
26 Documents Law. Nothing in the code for professional practice and
27 conduct shall be an independent basis for the suspension or
28 revocation of a certificate, nor shall it pertain to questions
29 of membership or affiliation or nonaffiliation in an employe
30 organization, or participation in the actions of an employe

1 organization, or participation or nonparticipation in the
2 actions of an employe organization related to the negotiation of
3 a collective bargaining agreement, a strike or other work
4 stoppage as defined under the act of July 23, 1970 (P.L.563,
5 No.195), known as the "Public Employe Relations Act," provided
6 that the code may specify those sections the violation of which
7 may constitute a basis for reprimand.

8 (11) To discipline[, as provided hereunder,] any
9 professional educator or charter school staff member found
10 guilty upon hearings before the commission of immorality,
11 incompetency, intemperance, [habitual use of drugs or
12 narcotics,] cruelty or negligence or for violation of any
13 provision of the act of May 29, 1931 (P.L.210, No.126),
14 entitled, as amended, "An act to regulate the certification and
15 the registration of persons qualified to teach in accredited
16 elementary and secondary schools in this State; imposing certain
17 duties upon the Department of Public Instruction and the State
18 Board of Education; defining violations; providing penalties,
19 and for appeal to the court of common pleas of Dauphin
20 County[,]." [and to direct the department to suspend the
21 certificate of any professional educator indicted for a crime or
22 misdemeanor involving moral turpitude or as a drug addict
23 whenever a certified copy of such indictment shall have been
24 filed with the commission and to revoke the same upon conviction
25 thereof whenever a certified copy of the verdict or judgment or
26 sentence of the court shall have been filed with the commission,
27 and to direct reinstatement of such certificate by the
28 department in any case where after hearing the commission shall
29 deem the same just and proper.] The commission shall establish
30 definitions consistent with this clause.

1 (11.1) To direct the department to suspend or revoke the
2 certificate of a professional educator OR CHARTER SCHOOL STAFF <—
3 MEMBER in accordance with section 9.2.

4 (12) To establish procedures which assure that actions
5 concerning discipline of professional educators shall comply
6 with due process.

7 (13) To keep minutes of its meetings and report annually to
8 the Governor, the General Assembly, the State Board of
9 Education, the education profession and the public and to
10 publish, from time to time, such other reports as it deems
11 appropriate.

12 (14) To adopt, pursuant to the act of July 31, 1968
13 (P.L.769, No.240), referred to as the Commonwealth Documents
14 Law, operating and procedural rules and regulations necessary to
15 carry out the purposes of this act. The commission shall hold
16 public hearings and take testimony concerning proposed
17 recommendations which shall be presented to the State Board of
18 Education.

19 Nothing in this act shall be construed to prevent
20 organizations of the education profession from adopting measures
21 designed to improve the standards and practices of ethics and
22 academic freedom among their members and in their relationships
23 with other persons and groups.

24 (b) All teachers' certificates in force in this Commonwealth
25 [at the time this act goes into effect] on the effective date of
26 this amendatory act shall continue in full force and effect,
27 subject to all the terms and conditions under which they were
28 issued, until they expire by virtue of their own limitations,
29 unless they are sooner annulled for the reasons and in the
30 manner provided by law.

(c) Recommendations as outlined in subsection (a) shall be presented publicly at a scheduled State Board of Education meeting. This presentation shall be prior to any board action on regulations, standards or guidelines affecting teacher certification, professional practices, accreditation of teacher education programs and long range plans.

Section 6. Organization and Meetings of the Commission.--(a) The Governor shall annually select a chairman from among the membership of the commission. The chairman, or a commission member designated by the chairman, shall be an ex officio member of the State Board of Education without voting privileges or assignment to either council.

(b) Meetings shall be held at least five times per year at the call of the chairman or upon request in writing of a majority of the commission. A majority shall constitute a quorum and a majority of such quorum shall have authority to act upon any matter properly before the commission[.] unless otherwise specified in this act. In the case of the discipline of an administrator, the commission shall act by a majority vote of a special panel of at least nine members selected by the chairman, to include no more than three teachers. The first meeting of the commission shall be held within six months of the effective date of this act. Meetings of the commission shall be open to the public and the executive director of the commission shall be responsible for seeing that notices of meetings of the commission are properly circulated.

Section 9. Complaints.--(a) A proceeding to discipline a professional educator shall be initiated by the filing of a complaint with the department by any interested party within one year from the date of the occurrence of any alleged action

1 specified under section 5(a)(11), or from the date of its
2 discovery. Complaints involving sexual abuse or exploitation of
3 a child or a student shall be filed within seven years after the
4 child or student reaches 18 years of age. If the alleged action
5 is of a continuing nature, the date of its occurrence is the
6 last date on which the [practice] conduct occurred.

7 [(b) Commissioned officers in school entities shall report
8 promptly to the department each instance:

9 (1) where the school entity has dismissed a certified
10 employee for cause; and/or

11 (2) where the commissioned officer is aware that one of his
12 school entity's present certificated employees has been formally
13 charged or convicted of a crime of moral turpitude or some other
14 offense requiring mandatory suspension or revocation of
15 certificate under this act.]

16 (c) The department [shall] may by regulation prescribe
17 standards for the filing of complaints. The complaint shall, at
18 a minimum:

19 (1) be in a form prescribed by the department;

20 (2) specify the nature and character of the charges; and

21 (3) be verified under oath by the complaining party or a
22 duly authorized agent of the complaining party.

23 (d) The commission, and its individual members, may not file
24 a complaint or initiate a disciplinary proceeding on their own
25 motion, except that if, in the performance of commission
26 business, the commission, or any of its individual members,
27 uncovers evidence that would appear to require discipline, the
28 commission may transmit such evidence to the department where
29 such evidence will be treated as a complaint in accordance with
30 the provisions of this act.

1 [(e) The department shall assemble any information relevant
2 to the complaint. The department shall then conduct a
3 preliminary review of the allegations and record. If the
4 department believes that disciplinary action may be appropriate,
5 or that further investigation is called for, it shall forward
6 the record and its recommendations to the chief counsel of the
7 department.]

8 (f) Upon receipt of a complaint [by the chief counsel of the
9 department, he shall promptly determine whether the complaint
10 alleges facts which, if true, are sufficient to require
11 discipline.], the department shall promptly review it and all
12 other complaints and information relating to the professional
13 educator.

14 (1) If the facts alleged are not sufficient to warrant
15 discipline, the department shall dismiss the complaint and
16 provide written notice of such dismissal to the complaining
17 party and to the affected professional educator.

18 (2) If the facts alleged are deemed sufficient [by the
19 department, it] to warrant discipline, the department shall
20 notify the affected professional educator and the complaining
21 party in writing of the sufficiency of the complaint[. Except as
22 provided below in the case of a complaint initiated by a
23 governing board, the department shall then] and conduct a
24 preliminary investigation to determine whether there is probable
25 cause to believe that grounds for discipline exist. The
26 department shall be provided, upon request, any documents it may
27 reasonably require in pursuit of its preliminary investigation.
28 Such request shall be made in writing to the professional
29 educator [and/or his employer, a copy of which shall be filed
30 with the commission.] or the current or prior employer.

1 (3) If the department determines that probable cause does
2 not exist, it shall issue a written notice to the affected
3 professional educator, the complaining party and the current or
4 prior employer if the employer was notified of the complaint. If
5 a finding of probable cause is made, the department shall so
6 notify the affected professional educator and the complaining
7 party and [shall] may immediately conduct an investigation
8 pursuant to section 12 or transmit [the complaint and] its
9 preliminary findings to the local school governing board of the
10 school entity in which the affected professional educator is or
11 was last serving, [unless the local school board is the
12 complaining party and has provided the report described in
13 section 11. If the local school board is the complaining party
14 and has already conducted hearings of record according to the
15 procedures established by law or by collective bargaining
16 agreement for adjudication of complaints against professional
17 educators, and if the local board has provided a transcript of
18 such hearing to the department together with the adjudication
19 resulting from such hearing, and has also transmitted the report
20 described in section 11, then no preliminary investigation shall
21 be conducted, and the hearing procedures described in sections
22 12 and 13 shall be initiated within 30 days of the receipt of
23 the complaint. Both parties shall be notified of the
24 transmission of the complaint.] to allow the local school board
25 to investigate and comment upon the appropriateness of
26 professional discipline.

27 Section 5. The act is amended by adding sections to read:

28 Section 9.1. Reporting to Department.--(A) The <—
29 superintendent, assistant superintendent, executive director of
30 an intermediate unit, CHIEF ADMINISTRATOR OF AN AREA VOCATIONAL- <—

1 TECHNICAL SCHOOL, administrator of a charter school or their
2 designees shall report any of the following to the department:

3 (1) The dismissal of a certified employe for cause. The
4 report shall be filed within 30 days after an administrative
5 decision by an arbitrator or the local board of school
6 directors.

7 (2) Conduct that has resulted in a criminal indictment or
8 conviction for a crime set forth in section 111(e)(1) through
9 (3) of the act of March 10, 1949 (P.L.30, No.14), known as the
10 "Public School Code of 1949," or other crime that involves moral
11 turpitude. The report shall be filed within 30 days of the
12 superintendent, deputy superintendent or their designee learning <—
13 of the charge or conviction. The report shall include all

14 RECEIPT OF INFORMATION AND SHALL INCLUDE ALL available <—
15 information relating to the conduct resulting in the charge or
16 conviction.

17 (3) Information which constitutes probable cause to suspect
18 that a certificated employe has caused physical injury to a
19 student or child or has committed sexual abuse or exploitation
20 involving a student or child. The report shall be filed within
21 60 days of the receipt of the information.

22 (B) THE SUPERINTENDENT, ASSISTANT SUPERINTENDENT, EXECUTIVE <—
23 DIRECTOR OF AN INTERMEDIATE UNIT, CHIEF ADMINISTRATOR OF AN AREA
24 VOCATIONAL-TECHNICAL SCHOOL AND ADMINISTRATOR OF A CHARTER
25 SCHOOL SHALL COMPLY WITH THE PROVISIONS OF SUBSECTION (A).
26 FAILURE TO COMPLY SHALL BE DEEMED A VIOLATION OF SUBSECTION (A)
27 BY THE CHIEF SCHOOL ADMINISTRATOR OF THAT SCHOOL ENTITY AND MAY
28 RESULT IN DISCIPLINARY ACTION AGAINST THE CHIEF SCHOOL
29 ADMINISTRATOR.

30 Section 9.2. Imposition of Discipline.--The commission shall

1 do all of the following regarding suspension or revocation of a
2 professional certificate:

3 (1) Direct the department to immediately suspend the
4 certificate of a professional educator indicted for a crime set
5 forth in section 111(e)(1) through (3) of the act of March 10,
6 1949 (P.L.30, No.14), known as the "Public School Code of 1949,"
7 if the commission, after notice and hearing, if requested,
8 determines that the professional educator poses a threat to the
9 health, safety or welfare of a student or other individual in a
10 school in accordance with the following:

11 (i) Within 15 days of the receipt of notice of charges
12 ISSUED by the department, the professional educator may request <—
13 a hearing before the commission. The commission, or a committee
14 of members of the commission, shall hold a hearing within 15
15 days of the receipt of the request. The commission or committee
16 shall issue a decision within 20 days after the conclusion of
17 the hearing, including receipt of the transcript or filing of
18 any briefs. The professional educator may appeal the decision of
19 the commission pursuant to section 15.

20 (ii) The commission may elect not to suspend the certificate
21 of a professional educator indicted for a crime under this
22 subsection if the professional educator files an affidavit
23 attesting that, during the pendency of the criminal charge, the
24 professional educator will not be employed in a position that
25 requires professional certification or involves direct contact
26 with children.

27 (iii) The commission shall direct the department to
28 immediately lift a suspension upon receipt of certified court
29 documents establishing that the charges have been dismissed or
30 otherwise removed.

1 (iv) The commission may reinstate the certificate of a
2 professional educator suspended under this subsection or release
3 the professional educator from an affidavit under subparagraph
4 (ii), if the professional educator participates in accelerated
5 rehabilitative disposition as a result of the indictment and the
6 commission determines that the professional educator does not
7 pose a threat to the health, safety or welfare of students or
8 other individuals in a school. The commission shall conduct an
9 expedited hearing for an applicant for reinstatement or release
10 under this subparagraph.

11 (2) Direct the department to revoke the certificate of a
12 professional educator who has been convicted of a crime set
13 forth in section 111(e)(1) through (3) of the "Public School
14 Code of 1949," or a crime involving moral turpitude, or an
15 equivalent crime in Federal court or a court of another State,
16 territory or nation, upon the filing of a certified copy of the
17 verdict or judgment or sentence of the court with the
18 commission. The commission shall direct the department to
19 immediately reinstate a certificate upon receipt of certified
20 court documents establishing that the conviction was reversed on
21 appeal. For purposes of this subsection, the term "conviction"
22 shall include a plea of guilty or nolo contendere.

23 (3) Direct the department to discipline a professional
24 educator upon receipt of a certified copy of an adjudication
25 from the appropriate licensing authority in another state,
26 territory or nation imposing discipline for grounds, other than
27 a conviction under paragraph (2), that are comparable to grounds
28 for discipline under this act. Upon receipt of the adjudication,
29 the commission shall issue an order directing that the
30 professional educator show cause why the imposition of identical

or comparable discipline in this Commonwealth would be
unwarranted. The professional educator shall respond within 30
days of receipt of the order. The final adjudication by an
appropriate licensing authority of another jurisdiction shall be
conclusive as to the misconduct of a professional educator under
this act. Within 30 days after receipt of an adjudication from
another jurisdiction, the commission may impose the identical or
comparable discipline unless the professional educator
demonstrates that:

(i) the discipline would result in a grave injustice;

(ii) the discipline is substantially different from what
would have been imposed for similar conduct in this
Commonwealth; or

(iii) the procedure used in the other jurisdiction did not
provide due process.

(4) Direct reinstatement of a certificate revoked, suspended
or surrendered in lieu of discipline in accordance with this
act.

Section 6. Sections 10, 11, 12, 13, 14, 15, 16 and 17 of the
act, added December 14, 1989 (P.L.612, No.71), are amended to
read:

Section 10. Confidentiality.--(a) All information relating
to any complaints, including the identity of the complainant, or
any proceedings relating to or resulting from such complaints,
shall remain confidential, unless or until discipline, other
than a private reprimand, is ordered, any provision of law to
the contrary notwithstanding. Should proceedings, after all
appeals, result in discipline, other than private reprimand,
such discipline and all records pertaining thereto shall become
public. There shall be no ex-parte communication on any pending

1 matter regarding discipline.

2 (b) This section shall not prohibit any person from
3 disclosing information previously made public as a result of
4 action by a school entity to dismiss a certified employe for
5 cause or as a result of a certified employe having been formally
6 charged with or convicted of a crime of moral turpitude or
7 another offense requiring mandatory [suspension or] revocation <—
8 of a certificate.

9 (c) The provisions of this section shall not apply to
10 reinstatements.

11 (d) Nothing in this section shall be construed to deny a
12 professional educator access to information necessary to prepare
13 a defense in a disciplinary proceeding under this act.

14 Section 11. [Proceedings Before Local School Board] Duties
15 of Local School Board Officials.--(a) Upon receipt of [a
16 complaint] the preliminary findings from the department [in
17 accordance with section 9], a local school board shall
18 investigate and [determine within 90 days whether said complaint
19 will be submitted to the] may pursue the local disciplinary
20 procedures established by law or by collective bargaining
21 agreement for adjudication of complaints against professional
22 educators [and shall report such determination to the
23 department]. The local school board shall inform the department
24 within 90 days of receipt of the preliminary findings whether
25 the local school board will pursue disciplinary action and
26 whether the board believes that professional disciplinary action
27 by the commission is warranted.

28 (b) The school board, when its [proceedings are] local
29 investigation is completed, [shall report to the department its
30 findings and a summary of the evidence, and any action taken,

1 and] may make a definite recommendation concerning discipline.
2 The school board shall notify the affected professional educator
3 of any such recommendation[.] and shall provide to the
4 department:

5 (1) Its findings and a summary of evidence gathered.

6 (2) Any other relevant information which the department may
7 request including information related to individuals interviewed
8 by the local school board.

9 (c) A school district, intermediate unit, area vocational-
10 technical school or charter school, and any official or employe
11 thereof, shall cooperate with the department during all stages
12 of the disciplinary process.

13 Section 12. Department Action [Upon School Board
14 Recommendations] After Investigation.--[Upon receipt of a copy
15 of the findings, summary of evidence and recommendations of the
16 school board,] After completion of an investigation, the
17 department may [order the charges dismissed] dismiss the
18 charges, determine that appropriate and sufficient punishment
19 has been imposed by the local school board, or initiate hearing
20 procedures. If the complaint is dismissed or it is determined
21 that appropriate and sufficient punishment has been imposed by
22 the local school board, the department shall inform the
23 professional educator, the complainant and the local school
24 board of the determination.

25 Section 13. Hearing.--(a) Upon determination to initiate
26 hearing procedures, the department shall, within 30 days, send a
27 written notice to the affected professional educator advising of
28 the charges and of his right to request a hearing within 30 days
29 of receipt of such notice. A copy of the written notice of the
30 charges shall be served upon the professional educator's current

1 or prior employer.

2 (b) Notwithstanding any other provision of this act, if the
3 department in its discretion determines that immediate
4 discipline is necessary to protect the health, safety or welfare
5 of students or other persons in the schools of this
6 Commonwealth, it shall request that the commission modify the
7 procedure set forth in this section and schedule an expedited
8 hearing [in accordance with subsection (c)].

9 (c) The hearing shall be held in accordance with the
10 following procedures:

11 (1) [The] Within 45 days of receiving a request for a
12 hearing, the commission shall appoint a hearing officer from a
13 list of impartial third parties qualified to conduct such
14 hearings. The list shall have been previously agreed upon
15 jointly by the Governor's General Counsel and at least two-
16 thirds of the commission, and shall have at least [ten] five
17 names which shall be chosen on a rotating basis.

18 (2) The burden of proof shall be on the department, which
19 shall act as prosecutor, to establish that grounds for
20 discipline exist.

21 (3) The professional educator against whom the charge is
22 made shall have the right to be represented by counsel and to
23 present evidence and argument in accordance with rules of
24 procedure promulgated by the commission.

25 (4) The governing board of the school entity in which the
26 affected professional educator is or was last employed may
27 intervene, for cause shown, in accordance with 1 Pa. Code §
28 35.28.

29 (5) The hearing shall be closed, unless the affected
30 professional educator requests that it be open to the public. If

1 the hearing is open, the hearing officer, in his discretion, may
2 close any portion of the hearing for good cause shown. If the
3 hearing is closed, only the department, commission members and
4 staff, the affected professional educator and his or her
5 representatives, any intervenors, if applicable, and any
6 material witnesses shall be permitted to attend. Students
7 attending school in the district which employs the professional
8 educator shall not be permitted to attend any hearing except as
9 witnesses duly subpoenaed to testify with respect to the charges
10 made.

11 (6) The department may recommend to the hearing officer and
12 commission appropriate discipline.

13 (7) The hearing officer shall, within [30] 60 days after the
14 conclusion of the hearing, issue a decision concerning whether
15 discipline should be imposed. A decision shall include findings
16 of fact and conclusions of law and specify the discipline.

17 Section 14. Decision by Hearing Officer.--(a) The decision
18 of the hearing officer shall become final unless [excepted to by
19 either] the professional educator or [by] the department files
20 exceptions or a brief on exceptions within 30 days of the date
21 of the recommended decision.

22 (b) The commission shall promptly consider exceptions to the
23 hearing officer's decision. The commission by a majority vote of
24 the full membership shall accept, modify or reject the hearing
25 officer's decision, except that, in the case of discipline of an
26 administrator, all exceptions shall be taken by a special panel
27 of at least [five] NINE members of the commission selected by <—
28 the chairperson, which will [not] include NO MORE THAN THREE <—
29 teachers.

30 (c) Within 45 days after receiving the decision from the

1 hearing officer and the exceptions thereto, the commission shall
2 issue a written opinion and order affirming, reversing or
3 modifying the hearing officer's decision and imposing
4 discipline, if any.

5 Section 15. Appeal.--(a) An order of the commission
6 regarding discipline of a professional educator may be appealed
7 only by the department or the professional educator as an
8 adjudication by a State agency in the manner provided by law.

9 (b) An appeal filed under subsection (a) shall operate as a
10 stay of the discipline until the determination of the appeal,
11 except where the commission's decision to discipline is
12 accompanied by a finding that immediate discipline is necessary
13 to protect the health, safety or welfare of students or other
14 persons in the schools of this Commonwealth.

15 (c) Where the [final decision] commission's adjudication is
16 in favor of the professional educator, the charges pertaining to
17 the [matter] disciplinary proceeding shall be expunged from any
18 personal or professional file of the professional educator
19 maintained by the department and/or the local school entity.

20 Section 16. Reinstatement.--(a) Any professional educator
21 whose certificate has been suspended [or], revoked or
22 surrendered may apply to the commission for an order lifting the
23 suspension or reinstating the certificate. The commission shall
24 order the lifting of the suspension or reinstatement if the
25 commission determines it would be just and proper. The
26 commission shall seek and consider recommendations from the
27 department prior to ordering the lifting of the suspension or
28 reinstatement of the certificate and shall conduct hearings on
29 the application at the request of the professional educator in
30 accordance with procedures of this act. For purposes of

determining whether it is just and proper to lift a suspension
or reinstate a certificate, the commission may consider:

(1) The conduct which resulted in discipline.

(2) Other past conduct of the applicant.

(3) The applicant's current attitude toward past conduct.

(4) Rehabilitation efforts and activities.

(5) References and letters of support or opposition.

(b) The commission shall not lift the suspension or
reinstate the certificate of a professional educator ~~for five~~
~~years from the date of suspension or revocation,~~ if the
suspension or revocation resulted from any of the following:

(1) A finding of guilt by the commission for sexual abuse or
exploitation.

(2) Surrender of a certificate in lieu of discipline for
conduct relating to sexual abuse, ~~exploitation or immorality~~ OR
EXPLOITATION.

(c) The commission shall not lift the suspension or
reinstate the certificate of a professional educator convicted
of an offense under 18 Pa.C.S. (relating to crimes and offenses)
set forth in section 111(e)(1) through (3) of the act of March
10, 1949 (P.L.30, No.14), known as the "Public School Code of
1949" for the time period set forth in that section.

Section 17. Unauthorized Release of Information.--(a) [Any]
Except as otherwise provided in section 10, a member, staff
member or employee of the commission, the Department of
Education, or any local school entity who releases or gives out
information received at a commission meeting or hearing or
[through the investigation of a professional educator or]
through any disciplinary proceedings conducted pursuant to this
act, without authorization of the commission, is guilty of a

1 misdemeanor of the third degree.

2 (b) Any material witness or his or her representative who
3 releases or gives out information received at a commission
4 meeting or hearing involving disciplinary proceedings, or who
5 releases or gives out information obtained as a result of direct
6 involvement in the investigation of a professional educator or
7 in any disciplinary proceedings conducted pursuant to this act,
8 without authorization of the commission, is guilty of a
9 misdemeanor of the third degree unless this information was
10 known to the material witness or his or her representative prior
11 to that meeting, hearing or investigation.

12 Section 7. The act is amended by adding a section to read:

13 Section 17.1. Immunity From Liability.--Notwithstanding any
14 other provision of law, no person shall be subject to civil
15 liability for filing a complaint or for providing information to
16 or cooperating with the department or the commission in the
17 course of an investigation or proceeding conducted under this
18 act. This section shall not apply to malicious action by any
19 person or the provision of false information if the person knew,
20 or had reason to know, that the information was false.

21 Section 8. Section 18 of the act, added December 14, 1989
22 (P.L.612, No.71), is amended to read:

23 Section 18. Commission Proceedings and Procedures.--(a) The
24 commission shall conduct its proceedings in accordance with the
25 provisions of this act and Title 2 of the Pennsylvania
26 Consolidated Statutes (relating to administrative law and
27 procedure); if any inconsistency arises, the provisions of this
28 act shall be controlling. Any person is entitled to be heard by
29 the commission in person, in writing, or through his or her
30 designated representative, in accordance with procedures adopted

1 pursuant to this act. The commission shall enter as a matter of
2 record the minutes of each meeting, every vote taken by the
3 commission and every official act of the commission.

4 (b) In all investigations or disciplinary proceedings
5 [pending before it], the commission is authorized to issue
6 subpoenas as provided for by law to compel the attendance and
7 testimony of witnesses and the production of books, records,
8 documents and other evidentiary material. A professional
9 educator shall have five days from service to respond to a
10 subpoena.

11 (c) No commissioner shall vote in any case where:

12 (1) the professional educator who is the subject of the
13 proceeding is employed by the same school entity; or

14 (2) the professional educator is a member of a Statewide
15 professional educator organization of which the commissioner is
16 an officer, director or employee.

17 Section 9. The act is amended by adding a section to read:

18 Section 18.1. Charter School Staff Members.--(a) Except as
19 otherwise provided in this section, this act shall apply to
20 charter school staff members.

21 (b) The commission may require a charter school staff member
22 to meet certain conditions or take corrective action as an
23 element of any discipline.

24 (c) When an order is issued prohibiting or suspending the
25 employment of a charter school staff member by a charter school,
26 the charter school staff member may apply for reinstatement in
27 accordance with section 16. For a charter school staff member,
28 reinstatement shall mean the lifting of an order to permit the
29 person to be employed in a charter school.

30 (d) The director or chief administrator of a charter school

1 shall comply with section 9.1 regarding both professional
2 educators and charter school staff members. A violation of
3 section 9.1 by a director or chief administrator of a charter
4 school may result in the discipline of the director or chief
5 administrator.

6 Section 10. This act shall take effect in 60 days.