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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 253      Session of  
1989

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INTRODUCED BY HESS, JANUARY 24, 1989

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AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 14, 1989

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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," further  
5 providing for the commission; and providing for the  
6 reestablishment of the commission.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Sections 1, 3, 4, 5, 6, 7 and 8 of the act of  
10 December 12, 1973 (P.L.397, No.141), referred to as the Teacher  
11 Certification Law, are amended to read:

12 Section 1. Definitions.--When used in this act, the  
13 following words and phrases shall have the following meanings:

14 (1) "Teacher" shall mean any person who holds a valid  
15 Pennsylvania teaching certificate.

16 (2) "Teach" shall mean to engage in the practice of teaching  
17 in the public schools of the Commonwealth or to provide related  
18 educational specialist, administrative or supervisory services

1 in such schools.

2 (3) "Commission" shall mean the Professional Standards and  
3 Practices Commission.

4 (4) "[Education] Educational specialist" shall mean a person  
5 employed by a public school as a certified guidance counselor,  
6 nurse, home and school visitor, psychologist, dental hygienist,  
7 instructional media specialist or nutrition specialist.

8 (5) "Administrator" shall mean any person who is a  
9 commissioned officer or holds a position requiring an  
10 administrative certificate.

11 (6) "Discipline" shall mean any one of the following  
12 actions:

13 (i) Issue a private reprimand.

14 (ii) Issue a public reprimand.

15 (iii) Suspend the certificate of a professional educator for  
16 a period to be determined by the commission.

17 (iv) Revoke the certificate.

18 (7) "Professional educator" shall mean a person who is  
19 certificated as ~~either a teacher~~ A TEACHER, EDUCATIONAL <—  
20 SPECIALIST or an administrator in the Commonwealth.

21 (8) "DEPARTMENT" SHALL MEAN THE DEPARTMENT OF EDUCATION. <—

22 (9) "SCHOOL ENTITY" SHALL MEAN A SCHOOL DISTRICT,  
23 INTERMEDIATE UNIT OR AREA VOCATIONAL-TECHNICAL SCHOOL.

24 (10) "SECRETARY" SHALL MEAN THE SECRETARY OF EDUCATION.

25 (11) "STATE BOARD" SHALL MEAN THE STATE BOARD OF EDUCATION.

26 Section 3. Professional Standards and Practices

27 Commission.--There is hereby created a Professional Standards  
28 and Practices Commission consisting of [sixteen] nineteen

29 members appointed by the Governor with the advice and consent of  
30 a majority of the members elected to the Senate. The term of

1 office of members of the commission[, except the student member <—  
2 whose term shall be one year,] shall be three years commencing <—  
3 on January 1 of the year following their appointment[, except  
4 that original appointments shall be for staggered terms of one,  
5 two and three years in order that the terms of five members of  
6 the commission shall expire each year thereafter]. Vacancies  
7 shall be filled for an unexpired term in the same manner as  
8 original appointments. No person shall serve for more than two  
9 consecutive terms as a member of the commission. The Governor  
10 may remove any member from the commission for misconduct or  
11 malfeasance in office, incapacity, or neglect of duty. All  
12 members of the commission shall be residents of the Commonwealth  
13 of Pennsylvania.

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

17 (1) [Eight] Ten classroom teachers, including one  
18 educational specialist, broadly representative of the teaching  
19 profession from public schools.

20 (2) Three administrators from public schools, AT LEAST ONE <—  
21 OF WHOM SHALL BE A COMMISSIONED OFFICER AND ONE A PRINCIPAL.

22 (3) [Two faculty members from approved institutions] ONE <—  
23 FACULTY MEMBER FROM AN APPROVED INSTITUTION of higher learning  
24 in the Commonwealth offering approved teacher education  
25 programs.

26 (4) One administrator from an approved institution of higher  
27 learning in the Commonwealth offering approved teacher education  
28 programs.

29 [(5) One college student currently enrolled in a program of <—  
30 teacher education in an approved institution of higher learning

1 in the Commonwealth offering approved teacher education  
2 programs.] <—

3 ~~(6) [One member] Two members from the general public who~~ <—  
4 ~~shall be [a parent of a pupil attending a public school] parents~~  
5 ~~of pupils attending public schools.~~

6 [(6) ONE MEMBER] (5) FOUR MEMBERS FROM THE GENERAL PUBLIC <—  
7 [WHO SHALL BE A PARENT OF A PUPIL ATTENDING A PUBLIC SCHOOL],  
8 TWO OF WHOM SHALL BE PARENTS OF PUPILS ATTENDING PUBLIC SCHOOLS  
9 AND TWO OF WHOM SHALL BE ELECTED PUBLIC SCHOOL DIRECTORS.

10 (b) Except for the [representative] representatives of the  
11 general public, [and the student representative,] the Governor <—  
12 in making appointments shall consider recommendations from  
13 panels of nominees submitted by Statewide organizations of  
14 professional educators which certify that the panels include  
15 only representatives of the category of professional personnel  
16 for which the panel or panels of nominees are submitted.

17 (c) All members of the commission except the persons  
18 representing the [college students and] general public shall <—  
19 have been actively engaged in teaching or providing related  
20 educational, administrative or supervisory services in a public  
21 school or approved institution of higher education with approved  
22 teacher education programs for at least five of the eight years  
23 immediately preceding their appointment. A person appointed to  
24 the commission who leaves the Commonwealth to become domiciled  
25 in another state or whose employment status changes to a  
26 category different from that for which he was appointed shall  
27 have his position on the commission deemed vacated.

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

1     (E) THE MEMBERS OF THE COMMISSION, EMPLOYES OF THE  
2     COMMISSION AND AGENTS OF THE COMMISSION SHALL IN ALL OF THEIR  
3     DELIBERATIONS CONSIDER THE PUBLIC INTEREST.

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

7     [(1) To recommend to the State Board of Education standards  
8 for certification of teachers to render professional services in  
9 the public schools of the Commonwealth and for accreditation of  
10 teacher education programs and to evaluate teacher education and  
11 certification program services and activities to determine the  
12 effectiveness in terms of the annual and long-range program  
13 plans and to recommend changes to the State Board of Education  
14 as indicated by such evaluations.

15     (2) To recommend to the State Board of Education standards  
16 of professional practice for teachers in public schools. Nothing  
17 contained herein is intended to confer upon the State Board of  
18 Education the authority to suspend, annul or revoke teaching  
19 certificates other than as is otherwise provided in law.

20     (3) To recommend to the State Board of Education procedures  
21 which assure that actions concerning suspension, annulment or  
22 revocation of teaching certificates shall comply with due  
23 process.

24     (4) In order to make the recommendations referred to in  
25 subsections (1), (2) and (3) above, the Department of Education  
26 shall furnish all information the commission deems necessary.

27     (5) To adopt rules and regulations as may be necessary to  
28 carry out the purposes of this act. The commission shall hold  
29 public hearings and take testimony concerning proposed  
30 recommendations which shall be presented to the State Board of

1 Education.

2 (6) Nothing in this act shall be construed to prevent  
3 organizations of the teaching profession from adopting measures  
4 designed to improve the standards and practices of ethics and  
5 academic freedom among their members and in their relationships  
6 with other persons and groups.]

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

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

15 (3) To recommend to the State Board of Education rules and  
16 regulations providing for the Department of Education  
17 investigation and determination of the acceptability of programs  
18 of professional education in colleges and universities of this  
19 Commonwealth issuing degrees to persons who may desire to teach  
20 in the schools of this Commonwealth. The commission may  
21 recommend as its own, with or without modification, standards  
22 used by other organizations engaged in the evaluation of teacher  
23 preparation programs. In establishing standards pursuant to this  
24 clause, the commission shall consider, among other factors, the  
25 following:

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

27 (ii) The knowledge and skills necessary to effectively  
28 perform professional education functions.

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

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

3     (v) The cultural and demographic diversity of relevant  
4     student populations.

5     (vi) Other interests of the public.

6     The commission shall assess the effectiveness of educator  
7     preparation programs to determine the relevance of this program  
8     to the annual and long-range program plans and to recommend  
9     changes to the State Board of Education as indicated by such  
10    evaluations.

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

14    (5) To recommend to the State Board of Education rules and  
15    regulations providing for the commission to enter into  
16    agreements with agencies of other states for reciprocal approval  
17    of teacher preparation program.

18    (6) To recommend to the State Board of Education rules and  
19    regulations governing examinations for the initial certification  
20    of teachers.

21    (7) To cooperate with a national board for professional  
22    education certification recognized by the commission, to such  
23    degree as in the commission's judgment shall bring advantage to  
24    the Commonwealth.

25    ~~(8) To investigate any violation of this act or application~~ <—  
26    ~~for reinstatement of certificates and to conduct hearings and to~~  
27    ~~discipline or prosecute such violations.~~

28    ~~(9) To establish standards for professional practice and~~  
29    ~~conduct.~~

30    (8) TO ESTABLISH PROCEDURES FOR INVESTIGATING COMPLAINTS <—

1 REQUESTING DISCIPLINE RECEIVED FROM THE BUREAU FOR CONDUCTING  
2 HEARINGS PURSUANT TO SECTION 13 AND FOR REINSTATEMENT OF  
3 CERTIFICATES.

4 (9) TO RECOMMEND TO THE STATE BOARD BY JULY 1, 1991,  
5 STANDARDS FOR PROFESSIONAL PRACTICE AND CONDUCT. NOTHING IN THE  
6 STANDARDS FOR PROFESSIONAL PRACTICE AND CONDUCT SHALL PERTAIN TO  
7 QUESTIONS OF MEMBERSHIP OR AFFILIATION OR NONAFFILIATION IN AN  
8 EMPLOYEE ORGANIZATION, OR PARTICIPATION IN THE ACTIONS OF AN  
9 EMPLOYEE ORGANIZATION, OR PARTICIPATION OR NONPARTICIPATION IN  
10 THE ACTIONS OF AN EMPLOYEE ORGANIZATION RELATED TO THE  
11 NEGOTIATION OF A COLLECTIVE BARGAINING AGREEMENT, A STRIKE OR  
12 OTHER WORK STOPPAGE AS DEFINED UNDER THE ACT OF JULY 23, 1970  
13 (P.L.563, NO.195), KNOWN AS THE "PUBLIC EMPLOYE RELATIONS ACT."

14 (10) To FORWARD TO THE SECRETARY SPECIFIC RECOMMENDATIONS TO <—  
15 discipline, as provided hereunder, any professional educator  
16 found guilty upon hearings of immorality, incompetency,  
17 intemperance, habitual use of drugs or narcotics, cruelty,  
18 negligence or for violation of any provision of this act, and to  
19 suspend the certificate of any professional educator indicted  
20 for a crime or misdemeanor involving moral turpitude or as a  
21 drug addict whenever a certified copy of such indictment shall  
22 have been filed with the commission and to revoke the same upon  
23 conviction thereof whenever a certified copy of the verdict or  
24 judgment or sentence of the court shall have been filed with the  
25 commission, and to reinstate such certificate in any case where,  
26 after hearing, the commission shall deem the same just and  
27 proper. The commission shall issue such rules and regulations as <—  
28 may be required to provide definitions and standards of conduct  
29 warranting discipline consistent with this clause.

30 (11) To establish procedures by regulation RECOMMEND TO THE <—



1 STATE BOARD OF EDUCATION, REGULATIONS which assure that actions  
2 concerning discipline of professional educators shall comply  
3 with due process.

4 (12) To keep minutes of its meetings and report annually to  
5 the Governor, the General Assembly, the education profession and  
6 the public and to publish, from time to time, such other reports  
7 as it deems appropriate.

8 (13) To adopt, PURSUANT TO THE ACT OF JULY 31, 1968 <—  
9 (P.L.769, NO.240), REFERRED TO AS THE COMMONWEALTH DOCUMENTS  
10 LAW, OPERATING AND PROCEDURAL rules and regulations necessary to  
11 carry out the purposes of this act. The commission shall hold  
12 public hearings and take testimony concerning proposed  
13 recommendations which shall be presented to the State Board of  
14 Education.

15 ~~(14)~~ Nothing in this act shall be construed to prevent <—  
16 organizations of the education profession from adopting measures  
17 designed to improve the standards and practices of ethics and  
18 academic freedom among their members and in their relationships  
19 with other persons and groups.

20 (b) All teachers' certificates in force in this Commonwealth  
21 at the time this act goes into effect shall continue in full  
22 force and effect, subject to all the terms and conditions under  
23 which they were issued, until they expire by virtue of their own  
24 limitations, unless they are sooner annulled for the reasons and  
25 in the manner provided by law.

26 (c) Recommendations as outlined in subsection (a) shall be  
27 presented publicly at a scheduled State Board of Education  
28 meeting. This presentation shall be prior to any board action on  
29 regulations, standards or guidelines affecting teacher  
30 certification, professional practices, accreditation of teacher

1 education programs and long range plans.

2       Section 6. Organization and Meetings of the Commission.--The  
3 commission shall annually select a chairman and vice-chairman by  
4 ballot. The chairman, or a commission member designated by the  
5 chairman, shall be an ex officio member of the State Board of  
6 Education without voting privileges or assignment to either  
7 council. Meetings shall be held at least [four] six times per  
8 year at the call of the chairman or upon request in writing of a  
9 majority of the commission. A majority shall constitute a quorum  
10 and a majority of such quorum shall have authority to act upon  
11 any matter properly before the commission. The first meeting of  
12 the commission shall be held within six months of the effective  
13 date of this act. Meetings of the commission shall be open to  
14 the public and the [Director of Professional Standards and       <—  
15 Practices] EXECUTIVE DIRECTOR OF THE COMMISSION shall be       <—  
16 responsible for seeing that notices of meetings of the  
17 commission are properly circulated.

18       Section 7. Expenses.--Members of the commission shall  
19 receive no compensation for their services, but shall be  
20 reimbursed for their actual and necessary expenses incurred in  
21 the performance of official commission business. A member of the  
22 commission who is an employe of an agency of the Commonwealth,  
23 or any of its political subdivisions including school districts,  
24 shall be permitted to attend commission meetings and perform  
25 other commission duties without loss of income or other  
26 benefits. A State agency or any political subdivision of this  
27 Commonwealth, including a school entity, required to employ a  
28 substitute for a member of the commission who is absent from his  
29 employment while performing commission business, shall be  
30 reimbursed by the Department of Education from funds

1 appropriated for the general government operations of the  
2 Department of Education for the actual amount of any costs  
3 incurred upon presentation of a request for reimbursement and  
4 documentation of such cost. A member of the commission who is  
5 employed by a private employer shall be reimbursed by the  
6 Department of Education, from funds appropriated for the general  
7 government operations of the Department of Education, for any  
8 income lost as a result of attendance at commission meetings or  
9 performance of other official commission duties upon  
10 presentation of a request for reimbursement and documentation of  
11 such loss.

12 Section 8. [Director of Professional Standards and <—  
13 Practices] COMMISSION STAFF.--(a) There shall be [a Director of <—  
14 Professional Standards and Practices] AN EXECUTIVE DIRECTOR OF <—  
15 THE COMMISSION who shall serve as the executive officer and  
16 secretary of the commission. [The director shall be appointed <—  
17 ~~jointly~~ by the Secretary of Education {after consultation with <—  
18 the commission.}] ~~and the commission.~~ THE COMMISSION AND THE <—  
19 SECRETARY SHALL JOINTLY EMPLOY AND FIX THE COMPENSATION OF THE  
20 EXECUTIVE DIRECTOR. The EXECUTIVE director, with approval of the <—  
21 commission and the secretary, may employ additional professional  
22 and clerical personnel as may be necessary to carry out the  
23 duties and responsibilities of the commission. The Department of  
24 Education shall provide adequate space[, equipment, staff,  
25 secretarial and administrative assistance] and equipment to  
26 facilitate the activities of the commission.

27 (b) [The commission shall keep minutes of its meetings and  
28 report annually to the Governor, the General Assembly, the  
29 teaching profession and the public.] The Governor, through his  
30 General Counsel, shall appoint a Chief Counsel and such

assistant counsel as shall be required to carry out the disciplinary functions and such other functions of the commission described in this act. The Chief Counsel shall, with the approval of the EXECUTIVE DIRECTOR OF THE commission, appoint such investigative staff and other staff as may be required to carry out these functions. Investigators may be certificated as professional educators.

Section 2. Section 9 of the act is repealed.

Section 3. The act is amended by adding sections to read:

~~Section 9. Complaint Requesting Discipline. (a) A proceeding to discipline a professional educator shall be initiated by the filing of a complaint with the commission by any interested party within 180 days from the date of the occurrence of the allegedly objectionable behavior, or from the date of its discovery. If the alleged behavior is of a continuing nature, the date of its occurrence is the last date on which the practice occurred. The commission by regulation shall prescribe standards for determining who is an interested party.~~

~~(b) The complaint shall:~~

SECTION 9. COMPLAINTS.--(A) A PROCEEDING TO DISCIPLINE A PROFESSIONAL EDUCATOR SHALL BE INITIATED BY THE FILING OF A COMPLAINT WITH THE BUREAU OF TEACHER PREPARATION AND CERTIFICATION BY ANY INTERESTED PARTY, INCLUDING THE DIRECTOR OF THE BUREAU, WITHIN ONE YEAR FROM THE DATE OF THE OCCURRENCE OF ANY ALLEGED ACTION SPECIFIED UNDER SECTION 5(A)(10), OR FROM THE DATE OF ITS DISCOVERY. IF THE ALLEGED ACTION IS OF A CONTINUING NATURE, THE DATE OF ITS OCCURRENCE IS THE LAST DATE ON WHICH THE PRACTICE OCCURRED.

(B) COMMISSIONED OFFICERS IN SCHOOL ENTITIES SHALL REPORT

PROMPTLY TO THE DEPARTMENT EACH INSTANCE:

(1) WHERE THE SCHOOL ENTITY HAS DISMISSED A CERTIFIED  
EMPLOYEE FOR CAUSE; AND/OR

(2) WHERE THE COMMISSIONED OFFICER IS AWARE THAT ONE OF HIS  
SCHOOL ENTITY'S PRESENT CERTIFICATED EMPLOYEES HAS BEEN FORMALLY  
CHARGED OR CONVICTED OF A CRIME OF MORAL TURPITUDE OR SOME OTHER  
OFFENSE REQUIRING MANDATORY SUSPENSION OR REVOCATION OF  
CERTIFICATE UNDER SECTION 1211 OF THE ACT OF MARCH 10, 1949  
(P.L.30, NO.14), KNOWN AS THE "PUBLIC SCHOOL CODE OF 1949," OR  
SECTION 2(J) OF THE ACT OF MAY 29, 1931 (P.L.210, NO.126),  
ENTITLED, AS AMENDED, "AN ACT TO REGULATE THE CERTIFICATION AND  
THE REGISTRATION OF PERSONS QUALIFIED TO TEACH IN ACCREDITED  
ELEMENTARY AND SECONDARY SCHOOLS IN THIS STATE; IMPOSING CERTAIN  
DUTIES UPON THE DEPARTMENT OF PUBLIC INSTRUCTION AND THE STATE  
BOARD OF EDUCATION; DEFINING VIOLATIONS; PROVIDING PENALTIES,  
AND FOR APPEAL TO THE COURT OF COMMON PLEAS OF DAUPHIN COUNTY."

(C) THE COMMISSION SHALL BY REGULATION PRESCRIBE STANDARDS  
FOR THE FILING OF COMPLAINTS. THE COMPLAINT SHALL:

(1) be in a form prescribed by the commission;  
(2) specify the nature and character of the charges; and  
(3) be verified under oath by the complaining party or a  
duly authorized agent of the complaining party.

~~(e)~~ (D) The commission, and its individual members, may not  
file a complaint or initiate a disciplinary proceeding on their  
own motion, except that if in the performance of commission  
business, the commission, or any of its individual members,  
uncovers evidence that would appear to require discipline, the  
commission may transmit such evidence to the local school board  
as indicated by subsection (d)(2), where such evidence will be  
treated as a complaint in accordance with the provisions of this

<—

1 act.

2 (E) THE BUREAU OF TEACHER PREPARATION AND CERTIFICATION <—  
3 SHALL ASSEMBLE ANY INFORMATION RELEVANT TO THE COMPLAINT FILED  
4 WITH THE BUREAU. IT SHALL THEN CONDUCT A PRELIMINARY REVIEW OF  
5 THE ALLEGATIONS AND RECORD. IF THE BUREAU BELIEVES THAT  
6 DISCIPLINARY ACTION MAY BE APPROPRIATE, OR THAT FURTHER  
7 INVESTIGATION IS CALLED FOR, IT SHALL FORWARD THE RECORD AND ITS  
8 RECOMMENDATIONS TO THE COUNSEL TO THE COMMISSION.

9 ~~(d)~~ (F) Upon receipt of a complaint by the counsel to the <—  
10 commission, the counsel to the commission shall promptly  
11 determine whether the complaint alleges facts which, if true,  
12 are sufficient to require discipline.

13 (1) If the facts alleged are not sufficient, the counsel to  
14 the commission shall dismiss the complaint and provide written  
15 notice of such dismissal to the complaining party.

16 (2) If the facts alleged are deemed sufficient by the  
17 counsel to the commission, the counsel to the commission shall  
18 notify the affected professional educator in writing that a  
19 complaint has been filed against him or her and of the nature of  
20 said complaint. The counsel to the commission shall also notify  
21 the complaining party in writing of the sufficiency of the  
22 complaint. The counsel to the commission shall then conduct a  
23 preliminary investigation to determine whether there is probable  
24 cause to believe that grounds for discipline exist. Such  
25 investigation shall be carried out by counsel to the commission  
26 with the assistance of such investigative staff as may be  
27 required.

28 ~~(3) Upon receipt of a recommendation by counsel to the~~ <—  
29 ~~commission, a three member panel of the commission, appointed on~~  
30 ~~a rotating basis by the chairperson, shall determine whether~~

~~probable cause exists. If the panel determines that probable  
cause does not exist,~~

(3) IF THE COUNSEL TO THE COMMISSION DETERMINES THAT  
PROBABLE CAUSE DOES NOT EXIST, HE SHALL DISMISS THE COMPLAINT  
AND ISSUE A WRITTEN NOTICE OF SUCH DISMISSAL TO THE AFFECTED  
PROFESSIONAL EDUCATOR AND THE COMPLAINING PARTY. IF THE COUNSEL  
TO THE COMMISSION DETERMINES THAT PROBABLE CAUSE DOES EXIST, HE  
SHALL MAKE SUCH FINDING IN WRITING AND FILE IT WITH THE  
GOVERNOR'S GENERAL COUNSEL, WHO MAY DISAPPROVE THIS FINDING  
WITHIN 30 DAYS. THE GENERAL COUNCIL MAY APPROVE THE FINDING AT  
ANY TIME WITHIN THE 30-DAY PERIOD. IF HE SO APPROVES OR TAKES NO  
ACTION, THE FINDING OF PROBABLE CAUSE SHALL BECOME FINAL. IF THE  
FINDING OF PROBABLE CAUSE BECOMES FINAL, THE COUNSEL TO the  
commission shall dismiss the complaint and issue written notice  
of such dismissal to the affected professional educator and the  
complaining party. If the panel determines that probable cause  
does exist, the commission shall transmit the complaint and its  
preliminary findings to the local school governing board of the  
school entity in which the affected professional educator is or  
was last serving, unless the local school board is the  
complaining party and has provided the report described in  
section 11. If the local school board is the complaining party  
and has already conducted hearings of record according to the  
procedures established by law and by collective bargaining  
agreement for adjudication of complaints against professional  
educators, and if the local board has provided a transcript of  
such hearing to the commission together with the adjudication  
resulting from such hearing, and has also transmitted the report  
described in section 11, then no preliminary investigation shall  
be conducted, and the hearing procedures described in section 13

1 shall be initiated within 30 days of the receipt of the  
2 complaint. Both parties shall be notified of the transmission of  
3 the complaint.

4 Section 10. Confidentiality.--All information relating to  
5 any complaints, or any proceedings relating to or resulting from  
6 such complaints, shall remain confidential, unless or until  
7 discipline, other than a private reprimand, is administered <—  
8 ORDERED BY THE SECRETARY, any provision of law to the contrary <—  
9 notwithstanding. Should proceedings, after all appeals, result  
10 in discipline, other than private reprimand, such discipline and  
11 all records pertaining thereto shall become public. NEITHER <—  
12 COUNSEL TO THE COMMISSION NOR STAFF OF THE BUREAU OF TEACHER  
13 PREPARATION AND CERTIFICATION SHALL COMMUNICATE ON ANY PENDING  
14 MATTER REGARDING DISCIPLINE EITHER WITH ANY MEMBER OF THE  
15 COMMISSION OR THE SECRETARY.

16 Section 11. Proceedings Before Local School Board.--(a)  
17 Upon receipt of a complaint from the commission in accordance  
18 with section 9, a local school board shall investigate and  
19 determine WITHIN 90 DAYS whether said complaint should WILL be <—  
20 submitted to the procedures established by law and by collective  
21 bargaining agreement for adjudication of complaints against  
22 professional educators, AND SHALL REPORT SUCH DETERMINATION TO <—  
23 THE COUNSEL TO THE COMMISSION.

24 (b) The school board, when its proceedings are completed,  
25 shall report to the commission its findings and a summary of the  
26 evidence, and any action taken, and shall make a definite  
27 recommendation concerning discipline. The school board shall  
28 also advise the affected professional educator and the  
29 complaining party.

30 Section 12. ~~Commission Action Upon School Board~~ <—



~~Recommendations. Upon receipt of a copy of the findings, summary of evidence, and recommendation of the school board, the commission may order the charges dismissed, privately admonish the charged professional educator, determine that appropriate and sufficient punishment has been imposed by the local school board, or refer the school board's records to the commission's counsel for prosecution.~~

SECTION 12. COUNSEL ACTION UPON SCHOOL BOARD

RECOMMENDATIONS.--UPON RECEIPT OF A COPY OF THE FINDINGS, SUMMARY OF EVIDENCE AND RECOMMENDATIONS OF THE SCHOOL BOARD, THE COUNSEL TO THE COMMISSION MAY ORDER THE CHARGES DISMISSED, DETERMINE THAT APPROPRIATE AND SUFFICIENT PUNISHMENT HAS BEEN IMPOSED BY THE LOCAL SCHOOL BOARD, OR INITIATE HEARING PROCEDURES.

Section 13. Hearing.--(a) Upon determination to initiate hearing procedures, the COUNSEL TO THE commission shall, within 30 days, send a written notice to the affected professional educator advising him or her of the charges against him or her, of his or her right to a hearing, and of the date for such a hearing.

~~(b) Notwithstanding any other provision of this act, if the commission determines that immediate discipline is necessary to protect the health, safety, or welfare of students or other persons in the schools of this Commonwealth, the commission may modify the procedure set forth in this section and schedule an expedited hearing in accordance with subsection (c).~~

~~(c) Except as otherwise provided in subsection (b), no discipline shall be imposed until the affected professional educator has an opportunity for a hearing before the commission.~~

(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF THE

1 COUNSEL TO THE COMMISSION IN HIS DISCRETION DETERMINES THAT  
2 IMMEDIATE DISCIPLINE IS NECESSARY TO PROTECT THE HEALTH, SAFETY  
3 OR WELFARE OF STUDENTS OR OTHER PERSONS IN THE SCHOOLS OF THIS  
4 COMMONWEALTH, THE EXECUTIVE DIRECTOR OF THE COMMISSION SHALL  
5 MODIFY THE PROCEDURE SET FORTH IN THIS SECTION AND SCHEDULE AN  
6 EXPEDITED HEARING IN ACCORDANCE WITH SUBSECTION (C).

7 (C) The hearing shall be held in accordance with the  
8 following procedures:

9 (1) The commission shall appoint a hearing officer from a  
10 list of impartial third parties qualified to conduct such  
11 hearings. The list shall have been previously agreed upon by <—  
12 JOINTLY BY THE SECRETARY AND at least two-thirds of the <—  
13 commission, and shall have at least ten names which shall be  
14 chosen on a rotating basis.

15 (2) The burden of proof shall be on the counsel to the  
16 commission, who shall act as prosecutor, to establish that  
17 grounds for discipline exist.

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

22 (4) The hearing shall be closed, unless the affected  
23 professional educator requests that it be open. If the hearing  
24 is open, the ~~commission, in its~~ HEARING OFFICER, IN HIS <—  
25 discretion, may close any portion of the hearing for good cause  
26 shown. If the hearing is closed, only commission members and  
27 staff, the affected professional educator and his or her  
28 representatives, and any material witnesses shall be permitted  
29 to attend. Students attending school in the district which  
30 employs the professional educator shall not be permitted to

1 attend any hearing except as witnesses duly subpoenaed to  
2 testify with respect to the charges made.

3 (5) The hearing officer shall, within 30 days after the  
4 conclusion of the hearing, issue a recommended decision  
5 concerning whether discipline should be imposed. A recommended  
6 decision shall include findings of fact, conclusions of law, and  
7 a definite recommendation concerning discipline.

8 Section 14. Decision by Commission HEARING OFFICER.--(a) <—  
9 The recommended decision of the hearing officer shall become <—  
10 final BE FORWARDED TO THE SECRETARY unless excepted to by either <—  
11 the professional educator or by the counsel to the commission  
12 within 30 days of the date of the recommended decision.

13 (b) The commission shall promptly consider exceptions to the <—  
14 recommended decision. The commission may accept, modify, or  
15 reject the recommended decision.

16 (c) No discipline may be administered except by a majority  
17 vote of the full membership of the commission.

18 (d) In the case of discipline of an administrator, all  
19 exceptions shall be taken to a special panel of at least five of  
20 the commission selected by the chairperson, which will not  
21 include teachers.

22 Section 15. Reinstatement. Any person whose certificate has  
23 been suspended or revoked may apply to the commission for a  
24 lifting of the suspension or a reinstatement of the certificate.  
25 The commission may order such a lifting or reinstatement based  
26 upon standards prescribed by the commission in regulations.

27 Section 16. Appeal. (a) An order by the commission to  
28 discipline a professional educator may be appealed to the  
29 Secretary of Education within 30 days of the entry of the  
30 commission's order, provided that the initial complaint was not

~~filed by a commissioned officer of the Department of Education.  
If the complaint was instituted by an officer of the Department  
of Education it may be appealable as an adjudication by a State  
agency in the manner provided by law.~~

~~(b) An order by the Secretary of Education to discipline a  
professional educator may be appealed as an adjudication by a  
State agency in the manner provided by law.~~

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

~~(d) The dismissal of a complaint by the commission shall be  
final and nonappealable.~~

(B) THE COMMISSION SHALL PROMPTLY CONSIDER EXCEPTIONS TO THE <—  
HEARING OFFICER'S RECOMMENDED DECISION. THE COMMISSION BY A  
MAJORITY VOTE OF THE FULL MEMBERSHIP SHALL RECOMMEND TO THE  
SECRETARY ACCEPTANCE, MODIFICATION OR REJECTION OF THE HEARING  
OFFICER'S RECOMMENDED DECISION, EXCEPT THAT IN THE CASE OF  
DISCIPLINE OF AN ADMINISTRATOR, ALL EXCEPTIONS SHALL BE TAKEN BY  
A SPECIAL PANEL OF AT LEAST FIVE MEMBERS OF THE COMMISSION  
SELECTED BY THE CHAIRPERSON, WHICH WILL NOT INCLUDE TEACHERS.

(C) WITHIN 45 DAYS AFTER RECEIVING THE RECOMMENDED DECISION  
FROM THE HEARING OFFICER OR THE COMMISSION, THE SECRETARY SHALL  
ISSUE A WRITTEN OPINION AND ORDER AFFIRMING, REVERSING OR  
MODIFYING THE HEARING OFFICER'S DECISION AND IMPOSING  
DISCIPLINE, IF ANY.

SECTION 15. APPEAL.--(A) AN ORDER BY THE SECRETARY TO

1 DISCIPLINE A PROFESSIONAL EDUCATOR MAY BE APPEALED AS AN  
2 ADJUDICATION BY A STATE AGENCY IN THE MANNER PROVIDED BY LAW.

3 (B) AN APPEAL FILED UNDER SUBSECTION (A) SHALL OPERATE AS A  
4 STAY OF THE DISCIPLINE UNTIL THE DETERMINATION OF THE APPEAL,  
5 EXCEPT WHERE THE SECRETARY'S DECISION TO DISCIPLINE IS  
6 ACCOMPANIED BY A FINDING THAT IMMEDIATE DISCIPLINE IS NECESSARY  
7 TO PROTECT THE HEALTH, SAFETY OR WELFARE OF STUDENTS OR OTHER  
8 PERSONS IN THE SCHOOLS OF THIS COMMONWEALTH.

9 (C) THE DISMISSAL OF A COMPLAINT BY THE COUNSEL TO THE  
10 COMMISSION OR THE SECRETARY SHALL BE FINAL AND NONAPPEALABLE.

11 (D) WHERE A COMPLAINT HAS BEEN DISMISSED OR THE FINAL  
12 DECISION IS IN FAVOR OF THE PROFESSIONAL EDUCATOR, THE CHARGES  
13 PERTAINING TO THE MATTER SHALL BE EXPUNGED FROM ANY PERSONAL OR  
14 PROFESSIONAL FILE OF THE PROFESSIONAL EDUCATOR MAINTAINED BY THE  
15 DEPARTMENT AND/OR THE LOCAL SCHOOL ENTITY.

16 Section ~~17~~ 16. Unauthorized Release of Information.--(a) <—  
17 Any member, staff member, or employee of the commission, the  
18 Department of Education, or any local school entity who releases  
19 or gives out information received at a commission meeting or  
20 hearing or through the investigation of a professional educator  
21 or through any disciplinary proceedings conducted pursuant to  
22 this act, without authorization of the commission, is guilty of  
23 a misdemeanor of the second degree.

24 (b) Any material witness or his or her representative who  
25 releases or gives out information received at a commission  
26 meeting or hearing involving disciplinary proceedings, or who  
27 releases or gives out information obtained as a result of direct  
28 involvement in the investigation of a professional educator or  
29 in any disciplinary proceedings conducted pursuant to this act,  
30 without authorization of the commission, is guilty of a

misdemeanor of the second degree unless this information was known to the material witness or his or her representative prior to that meeting, hearing or investigation.

Section ~~18~~ 17. Commission Proceedings and Procedures.--(a) <—  
The commission shall conduct its proceedings in accordance with the provisions of this act and Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure); if any inconsistency arises, the provisions of this act shall be controlling. Any person is entitled to be heard by the commission in person, in writing, or through his or her designated representative, in accordance with procedures adopted pursuant to this act. The commission shall enter as a matter of record the minutes of each meeting, every vote taken by the commission, and every official act of the commission.

(b) In all proceedings pending before it, the commission is authorized to issue subpoenas as provided for by law to compel the attendance and testimony of witnesses and the production of books, records, documents and other evidentiary material.

(c) No commissioner shall vote in any case, ~~either as a member of a panel or as a member of the full commission,~~ <—  
where:

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

(2) the professional educator is a member of a Statewide professional educator organization of which the commissioner is an officer, director or ~~employee~~ EMPLOYEE. <—

Section 4. Section 10 of the act is amended to read:

Section [10] ~~19~~ 18. Effective Date.--This act shall take <—  
effect immediately.

Section 5. This act, with respect to the Professional Standards and Practices Commission, constitutes the legislation

1 required to reestablish an agency under the act of December 22,  
2 1981 (P.L.508, No.142), known as the Sunset Act.

3       Section 6. The Professional Standards and Practices  
4 Commission shall continue together with its statutory functions  
5 and duties until December 31, 1994, when it shall terminate and  
6 go out of existence unless reestablished or continued by the  
7 General Assembly for an additional ten years. Evaluation and  
8 review, termination, reestablishment and continuation of the  
9 agency shall be conducted pursuant to the act of December 22,  
10 1981 (P.L.508, No.142), known as the Sunset Act.

11       Section 7. The members of the existing Professional  
12 Standards and Practices Commission, as of December 31, 1988,  
13 shall continue to serve as members until their present terms of  
14 office expire and until their successors are appointed and  
15 qualified.

16       Section 8. Each rule and regulation of the Professional  
17 Standards and Practices Commission in effect on December 31,  
18 1988, shall remain in effect until repealed or amended by the  
19 commission.

20       Section 9. The following acts or parts of acts are repealed:

21       Section 2(i) and (j) of the act of May 29, 1931 (P.L.210,  
22 No.126), entitled "An act to regulate the certification and the  
23 registration of persons qualified to teach in accredited  
24 elementary and secondary schools in this State; imposing certain  
25 duties upon the Department of Public Instruction and the State  
26 Board of Education; defining violations; providing penalties,  
27 and for appeal to the court of common pleas of Dauphin County."

28       Section 1211 of the act of March 10, 1949 (P.L.30, No.14),  
29 known as the Public School Code of 1949.

30       Section 10. This act shall take effect as follows:

1           (1) Section 1 (section 5(a)(8), (9), (10) and (11)),  
2       section 3 (sections 9 through ~~18~~ 17) and section 4 (section       <—  
3       ~~19~~ 18) shall take effect in 60 days.                               <—  
4           (2) The remainder of this act shall take effect  
5       immediately.