
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 253 Session of
1989

INTRODUCED BY HESS, JANUARY 24, 1989

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 26, 1989

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 HOWEVER, THE GOVERNOR SHALL NOT BE LIMITED TO NOMINATING MEMBERS <—
18 OF STATEWIDE ORGANIZATIONS FOR APPOINTMENTS TO THE COMMISSION.

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

30 (d) The chairman of the State Board of Education, or a

1 member of the board designated by the chairman, shall be an ex
2 officio member of the commission without voting privileges.

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

<—

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

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

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

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

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

29 (5) To adopt rules and regulations as may be necessary to
30 carry out the purposes of this act. The commission shall hold

1 public hearings and take testimony concerning proposed
2 recommendations which shall be presented to the State Board of
3 Education.

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

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

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

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

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

29 (ii) The knowledge and skills necessary to effectively
30 perform professional education functions.

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

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

5 (v) The cultural and demographic diversity of relevant
6 student populations.

7 (vi) Other interests of the public.

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

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

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

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

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

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

30 ~~(9) To establish standards for professional practice and~~

1 ~~conduct.~~

2 (8) TO ESTABLISH PROCEDURES FOR INVESTIGATING COMPLAINTS <—
3 REQUESTING DISCIPLINE RECEIVED FROM THE BUREAU FOR CONDUCTING
4 HEARINGS PURSUANT TO SECTION 13 AND FOR REINSTATEMENT OF
5 CERTIFICATES.

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

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

1 ~~warranting discipline consistent with this clause.~~

2 ~~(11) To establish procedures by regulation~~ RECOMMEND TO THE <—
3 ~~STATE BOARD OF EDUCATION, REGULATIONS which assure that actions~~
4 ~~concerning discipline of professional educators shall comply~~
5 ~~with due process.~~

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

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

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

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

28 (c) Recommendations as outlined in subsection (a) shall be
29 presented publicly at a scheduled State Board of Education
30 meeting. This presentation shall be prior to any board action on

1 regulations, standards or guidelines affecting teacher
2 certification, professional practices, accreditation of teacher
3 education programs and long range plans.

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

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

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

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

29 (b) [The commission shall keep minutes of its meetings and
30 report annually to the Governor, the General Assembly, the

1 teaching profession and the public.] The Governor, through his
2 General Counsel, shall appoint a Chief Counsel and such
3 assistant counsel as shall be required to carry out the
4 disciplinary functions and such other functions of the
5 commission described in this act. The Chief Counsel shall, with
6 the approval of the EXECUTIVE DIRECTOR OF THE commission, <—
7 appoint such investigative staff and other staff as may be
8 required to carry out these functions. Investigators may be
9 certificated as professional educators.

10 Section 2. Section 9 of the act is repealed.

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

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

22 ~~(b) The complaint shall:~~

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

1 PRACTICE OCCURRED. THE BUREAU OF TEACHER PREPARATION AND
2 CERTIFICATION SHALL NOTIFY THE AFFECTED PROFESSIONAL EDUCATOR IN
3 WRITING THAT A COMPLAINT HAS BEEN FILED AGAINST HIM OR HER AND
4 OF THE NATURE OF SAID COMPLAINT.

5 (B) COMMISSIONED OFFICERS IN SCHOOL ENTITIES SHALL REPORT
6 PROMPTLY TO THE DEPARTMENT EACH INSTANCE:

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

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

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

24 (1) be in a form prescribed by the commission;

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

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

28 ~~(e)~~ (D) The commission, and its individual members, may not <—
29 file a complaint or initiate a disciplinary proceeding on their
30 own motion, except that if in the performance of commission

1 business, the commission, or any of its individual members,
2 uncovers evidence that would appear to require discipline, the
3 commission may transmit such evidence to the local school board
4 as indicated by subsection (d)(2), where such evidence will be
5 treated as a complaint in accordance with the provisions of this
6 act.

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

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

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

21 (2) If the facts alleged are deemed sufficient by the
22 counsel to the commission, the counsel to the commission shall <—
23 ~~notify the affected professional educator in writing that a~~
24 ~~complaint has been filed against him or her and of the nature of~~
25 ~~said complaint. The counsel to the commission shall also notify~~
26 HE SHALL NOTIFY THE AFFECTED PROFESSIONAL EDUCATOR AND the <—
27 complaining party in writing of the sufficiency of the
28 complaint. The counsel to the commission shall then conduct a
29 preliminary investigation to determine whether there is probable
30 cause to believe that grounds for discipline exist. Such

1 investigation shall be carried out by counsel to the commission
2 with the assistance of such investigative staff as may be
3 required.

4 ~~(3) Upon receipt of a recommendation by counsel to the~~ <—
5 ~~commission, a three member panel of the commission, appointed on~~
6 ~~a rotating basis by the chairperson, shall determine whether~~
7 ~~probable cause exists. If the panel determines that probable~~
8 ~~cause does not exist,~~

9 (3) IF THE COUNSEL TO THE COMMISSION DETERMINES THAT <—
10 PROBABLE CAUSE DOES NOT EXIST, HE SHALL DISMISS THE COMPLAINT
11 AND ISSUE A WRITTEN NOTICE OF SUCH DISMISSAL TO THE AFFECTED
12 PROFESSIONAL EDUCATOR AND THE COMPLAINING PARTY. IF THE COUNSEL
13 TO THE COMMISSION DETERMINES THAT PROBABLE CAUSE DOES EXIST, HE
14 SHALL MAKE SUCH FINDING IN WRITING AND FILE IT WITH THE
15 GOVERNOR'S GENERAL COUNSEL, WHO MAY DISAPPROVE THIS FINDING
16 WITHIN 30 DAYS. THE GENERAL COUNCIL COUNSEL MAY APPROVE THE <—
17 FINDING AT ANY TIME WITHIN THE 30-DAY PERIOD. IF HE SO APPROVES
18 OR TAKES NO ACTION, THE FINDING OF PROBABLE CAUSE SHALL BECOME
19 FINAL AND THE AFFECTED PROFESSIONAL EDUCATOR AND THE COMPLAINING <—
20 PARTY SHALL BE SO NOTIFIED. IF THE FINDING OF PROBABLE CAUSE
21 BECOMES FINAL, THE COUNSEL TO the commission shall dismiss the <—
22 complaint and issue written notice of such dismissal to the
23 affected professional educator and the complaining party. If the
24 panel determines that probable cause does exist, the commission
25 shall transmit the complaint and its preliminary findings to the
26 local school governing board of the school entity in which the
27 affected professional educator is or was last serving, unless
28 the local school board is the complaining party and has provided
29 the report described in section 11. If the local school board is
30 the complaining party and has already conducted hearings of

1 record according to the procedures established by law and by
2 collective bargaining agreement for adjudication of complaints
3 against professional educators, and if the local board has
4 provided a transcript of such hearing to the commission together
5 with the adjudication resulting from such hearing, and has also
6 transmitted the report described in section 11, then no
7 preliminary investigation shall be conducted, and the hearing
8 procedures described in section 13 shall be initiated within 30
9 days of the receipt of the complaint. Both parties shall be
10 notified of the transmission of the complaint.

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

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

1 (b) The school board, when its proceedings are completed,
2 shall report to the commission its findings and a summary of the
3 evidence, and any action taken, and shall make a definite
4 recommendation concerning discipline. The school board shall
5 also advise the affected professional educator and the
6 complaining party.

7 ~~Section 12. Commission Action Upon School Board~~ <—
8 ~~Recommendations. Upon receipt of a copy of the findings,~~
9 ~~summary of evidence, and recommendation of the school board, the~~
10 ~~commission may order the charges dismissed, privately admonish~~
11 ~~the charged professional educator, determine that appropriate~~
12 ~~and sufficient punishment has been imposed by the local school~~
13 ~~board, or refer the school board's records to the commission's~~
14 ~~counsel for prosecution.~~

15 ~~SECTION 12. COUNSEL ACTION UPON SCHOOL BOARD~~ <—
16 ~~RECOMMENDATIONS.--UPON RECEIPT OF A COPY OF THE FINDINGS,~~
17 ~~SUMMARY OF EVIDENCE AND RECOMMENDATIONS OF THE SCHOOL BOARD, THE~~
18 ~~COUNSEL TO THE COMMISSION MAY ORDER THE CHARGES DISMISSED,~~
19 ~~DETERMINE THAT APPROPRIATE AND SUFFICIENT PUNISHMENT HAS BEEN~~
20 ~~IMPOSED BY THE LOCAL SCHOOL BOARD, OR INITIATE HEARING~~
21 ~~PROCEDURES.~~

22 ~~Section 13. Hearing.--(a) Upon determination to initiate~~
23 ~~hearing procedures, the COUNSEL TO THE commission shall, within~~ <—
24 ~~30 days, send a written notice to the affected professional~~
25 ~~educator advising him or her of the charges against him or her,~~
26 ~~of his or her right to a hearing, and of the date for such a~~
27 ~~hearing.~~

28 ~~(b) Notwithstanding any other provision of this act, if the~~ <—
29 ~~commission determines that immediate discipline is necessary to~~
30 ~~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 COUNSEL TO THE COMMISSION IN HIS DISCRETION 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 EXECUTIVE DIRECTOR OF THE COMMISSION SHALL MODIFY THE PROCEDURE SET FORTH IN THIS SECTION AND SCHEDULE AN EXPEDITED HEARING IN ACCORDANCE WITH SUBSECTION (C).

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

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

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

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

(4) The hearing shall be closed, unless the affected professional educator requests that it be open. If the hearing

<—

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

10 (5) The hearing officer shall, within 30 days after the
11 conclusion of the hearing, issue a recommended decision
12 concerning whether discipline should be imposed. A recommended
13 decision shall include findings of fact, conclusions of law, and
14 a definite recommendation concerning discipline.

15 Section 14. Decision by ~~Commission~~ HEARING OFFICER.--(a) <—
16 The recommended decision of the hearing officer shall ~~become~~ <—
17 ~~final~~ BE FORWARDED TO THE SECRETARY unless excepted to by either <—
18 the professional educator or by the counsel to the commission
19 within 30 days of the date of the recommended decision.

20 ~~(b) The commission shall promptly consider exceptions to the~~ <—
21 ~~recommended decision. The commission may accept, modify, or~~
22 ~~reject the recommended decision.~~

23 ~~(c) No discipline may be administered except by a majority~~
24 ~~vote of the full membership of the commission.~~

25 ~~(d) In the case of discipline of an administrator, all~~
26 ~~exceptions shall be taken to a special panel of at least five of~~
27 ~~the commission selected by the chairperson, which will not~~
28 ~~include teachers.~~

29 Section 15. Reinstatement. Any person whose certificate has
30 been suspended or revoked may apply to the commission for a

~~lifting of the suspension or a reinstatement of the certificate.
The commission may order such a lifting or reinstatement based
upon standards prescribed by the commission in regulations.~~

~~Section 16. Appeal. (a) An order by the commission to
discipline a professional educator may be appealed to the
Secretary of Education within 30 days of the entry of the
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~~

1 SELECTED BY THE CHAIRPERSON, WHICH WILL NOT INCLUDE TEACHERS.

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

7 SECTION 15. APPEAL.--(A) AN ORDER BY THE SECRETARY TO
8 DISCIPLINE A PROFESSIONAL EDUCATOR MAY BE APPEALED AS AN
9 ADJUDICATION BY A STATE AGENCY IN THE MANNER PROVIDED BY LAW.

10 (B) AN APPEAL FILED UNDER SUBSECTION (A) SHALL OPERATE AS A
11 STAY OF THE DISCIPLINE UNTIL THE DETERMINATION OF THE APPEAL,
12 EXCEPT WHERE THE SECRETARY'S DECISION TO DISCIPLINE IS
13 ACCOMPANIED BY A FINDING THAT IMMEDIATE DISCIPLINE IS NECESSARY
14 TO PROTECT THE HEALTH, SAFETY OR WELFARE OF STUDENTS OR OTHER
15 PERSONS IN THE SCHOOLS OF THIS COMMONWEALTH.

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

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

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

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

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

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

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

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

30 (2) the professional educator is a member of a Statewide

1 professional educator organization of which the commissioner is
2 an officer, director or ~~employee~~ EMPLOYEE. <—

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

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

6 Section 5. This act, with respect to the Professional
7 Standards and Practices Commission, constitutes the legislation
8 required to reestablish an agency under the act of December 22,
9 1981 (P.L.508, No.142), known as the Sunset Act.

10 Section 6. The Professional Standards and Practices
11 Commission shall continue together with its statutory functions
12 and duties until December 31, 1994, when it shall terminate and
13 go out of existence unless reestablished or continued by the
14 General Assembly for an additional ten years. Evaluation and
15 review, termination, reestablishment and continuation of the
16 agency shall be conducted pursuant to the act of December 22,
17 1981 (P.L.508, No.142), known as the Sunset Act.

18 Section 7. The members of the existing Professional
19 Standards and Practices Commission, as of December 31, 1988,
20 shall continue to serve as members until their present terms of
21 office expire and until their successors are appointed and
22 qualified.

23 Section 8. Each rule and regulation of the Professional
24 Standards and Practices Commission in effect on December 31,
25 1988, shall remain in effect until repealed or amended by the
26 commission.

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

28 Section 2(i) and (j) of the act of May 29, 1931 (P.L.210,
29 No.126), entitled "An act to regulate the certification and the
30 registration of persons qualified to teach in accredited

1 elementary and secondary schools in this State; imposing certain
2 duties upon the Department of Public Instruction and the State
3 Board of Education; defining violations; providing penalties,
4 and for appeal to the court of common pleas of Dauphin County."

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

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

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

11 (2) The remainder of this act shall take effect
12 immediately.