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- ☐ We are here once again to oppose the Pennsylvania Department of Education's (PDE) proposed changes to Chapter 14 and elimination of Chapter 342. The current draft is located at www.pde.psu.edu/regs/chap14prop.pdf. We have attended and presented testimony at two PDE hearings. We have also written to our legislators.
- ☐ It is apparent that even the State Board of Education's Standing Committee on Special Education, which is charged with making the Chapter 14 changes, cannot understand the revised regulations. When asked specific questions about the regulations, on several occasions Committee Chair Mollie O. Phillips was unable to answer. Instead she requested that participants put "all dialogue in writing" for her. How will parents be able to understand their child's rights if those drafting them cannot?
- ☐ Throughout the State Board of Education's hearings, Ms. Phillips told the public that the board needed compelling reasons to keep certain provisions in Chapter 14. We ask, "What are their compelling reasons for removing the protections in Chapter 14 and 342?" If anything, the regulations should be more rigid. Not one state is in compliance IDEA '97 (Attachment D). School districts look for ways to avoid meeting the needs of their special education students (Attachment E). Schools simply flat-out fail to meet special education students' needs.
- ☐ Ms. Phillips is quoted in a January 19, 2001 *Pittsburgh Post-Gazette* article as saying "the regulations were revised primarily to bring them into compliance with federal law." They were, in fact, revised to remove any additional safeguards provided for special education students in Pennsylvania that are not specifically required by IDEA '97. Adding insult to injury, the federal law is referenced by number throughout the revised Chapter 14, making it virtually impossible for parents and administrators to understand. And Chapter 342 has been removed completely, leaving no explanation of how our state expects Chapter 14 to be implemented. Without Chapter 342, special education standards will have to be determined by case law, again!

- ☐ While the special PDE committee did make some concessions due to over whelming public outcry, some critical issues remain, such as classroom size limitations:

"Under the proposed regulations approved by the board last week, unfortunately, the caps on class size would be removed and the only limit would be how many students any one teacher could handle overall.

Since smaller class sizes are beneficial to all students, and crucial to those who have special physical or learning disabilities to overcome, it's hard to imagine any educational rationale for the change.

The state Education Department emphasizes the increased scheduling flexibility that will result from eliminating class-size maximums. A department official also contends, unconvincingly, that some special-education students may benefit from larger classes in certain circumstances and that, in any event, the individual education plan will set the program for special-ed students.

But if you peel away the strained excuses, the bottom line is the bottom line and reducing costs is the driving factor. As important as economy and efficiency are they cannot come at the expense of quality education.

That is what will happen if for example learning-disabled children who had been in classes limited to eight students at a time, are now in classes with 15 students.

That said, there is room for adjustment in the old standards. It's impossible to choose the exact ideal class size, or the point at which one more student is too many. Further an absolute cutoff can prove economically devastating to a small district if it is required to hire extra staff because special-education classes are one or two pupils over the maximum.

A recommendation by the Pittsburgh Federation of Teachers would address those concerns. It would keep the class-size maximums but allow schools to exceed them by 25 percent. Thus a class with a cap of eight students could go as high as 10.

But to eliminate the caps entirely is asking for trouble. In many cases the teacher caseload limits will effectively constrain class sizes for special education—but not in all.

There are no class-size limits in the federal regulations, and many states do not set caps. But there is a correlation between class size and educational quality, a connection the state has acknowledged. It shouldn't back away now."

Editorial reprinted from the January 26, 2001 edition of the Pittsburgh Post-Gazette.

- ☐ With waivers of recommended classroom sizes as part of the revised Chapter 14, schools will be legally permitted to warehouse special education students, putting them into a room to be babysat instead of taught. The Pittsburgh Federation of Teachers and the chairman of the Pennsylvania Federation of Teacher's special education committee believe this scenario will occur. In fact, we believe that we have grounds for a lawsuit. Chapter 16 provides a maximum class size for gifted children with no waivers allowed, yet special education children are denied such protection. (For details of Chapter 16, go to <http://www.pabulletin.com/secure/data/vol30/30-50/2124.html>.) Students with disabilities have a right to the same quality education that a typically developing student receives.
- ☐ Parents enforce special education laws. The National Council on Disabilities' (an independent organization appointed by the President) report, "Back to School on Civil Rights," states that "enforcement of the law is the burden of parents who too often must invoke formal complaint procedures and hearings, including expensive and time-consuming litigation, to obtain the services to which their children are entitled. Many parents with limited resources are unable to challenge violations when they occur. Districts use publicly financed attorneys to resist parental efforts to secure compliance." See the full text of the report at www.ncd.gov/newsroom/publications/backtoschool_1.html.
- ☐ The state attorney general's office, to prevent the unauthorized practice of law, has mandated legal representation for parents during administrative hearings. Parents can consult with an advocate but cannot be represented by one during the administrative hearing. Many other types of administrative hearings use advocates to resolve issues prior to dispute, i.e. Medical advocates in hospitals and lay advocates in administrative hearings at Social Security. Parents will now have to hire an attorney to represent them, if they can afford one. The law should be changed to allow education advocates to operate in the same way lay advocates do. If special education advocates cannot directly represent children, then they will sit beside the parent and advise throughout the proceeding. Due processes will take more time, be more costly, and delay the provision of a free, appropriate public education to children. If this happens, then only children with a diagnosis of mental retardation will be allowed to have advocates represent them in due process hearings (under the PARC Consent Agreement) with all other children with disabilities being denied that support. A decision on this same advocate issue is currently pending before the United States Supreme Court.
- ☐ The Federal Office of Special Education Programs (OSEP) has found repeated problems with PDE. PDE has not systematically monitored its school districts since 1988. It has no idea whether the provisions of Chapter 14 and 342 are working or appropriate. Our state is receiving its federal funding under special conditions, which means we are in danger of losing that money. We contend that the PDE is gutting the special education regulations as a last-ditch effort to become compliant because the state cannot meet even the minimum requirements of IDEA. The Mt. Lebanon School District has not been monitored in more than six years. This year's monitoring was cancelled by PDE until next year.
- ☐ Following is a document written by Reed Martin, an education lawyer, called "Making a State Education Agency Exercise Their Responsibility to Make the System Work." It brilliantly describes the problems with special education in Pennsylvania.

Making A State Education Agency Exercise Their Responsibility To Make The System Work

Parents in every state complain that there is not a "cop" to report their "crime" to. They say their local district is out of compliance and tries to intimidate the parent by telling them "if you don't like it, try to hire a lawyer and sue us;" the state education agency won't even look at their complaint; OSERS referred their complaint back to the state education agency; the local district does not even recognize the existence of Section 504; the Office for Civil Rights won't even open a file on them; and so forth.

We get that complaint at least once every day in our office. Wouldn't you like to see the system work the way it is supposed to work?

A model of law enforcement is now under way, in Pennsylvania, because of action by the federal Department of Education. There really is a cop on duty. Actually "cop" is the wrong analogy because this is much, much better: a model that explains what is wrong, offers technical assistance to get it right, sets out a system of positive steps to shape the state's behavior from non-compliance into compliance, offers very positive reinforcement for achieving the desired change, and makes very clear the precise punishment that will occur if there is failure.

This has been in the law for a very long time but it was slightly changed and re-emphasized in the 1997 IDEA amendments and is now being done in a textbook way in an action involving the Pennsylvania Department of Education.

Stop! Don't Implement That Law We Just Passed

The 1997 IDEA amendments [20 U.S.C. 1412(11)(A) and 1416(a)] absolutely require what the USDOE is now doing. Both of Pennsylvania's U.S. Senators and two of their Congressmen, all of whom voted for these amendments, have now written to the USDOE a letter ordering them not to implement the law they just voted for.

In this case, the possible punishment for non-compliance is withholding of certain IDEA dollars. Now everyone knows that what we need in special education is more dollars, not less dollars. So why would withholding work? Well, it is all we are left with when we are confronted with a school district incredibly out of compliance that has been nudged to do better by a state department of education that is willing to take "no" for an answer.

The appropriate remedy, very clear in the IDEA, is to order the state to order the local to comply, or else the state loses its dollars. The whiny letter from the Pennsylvania Senators and Congressmen begs to have no punishment and give the state and local districts more time to come into compliance. To come into compliance with what? The requirements of the 1975 Education for All Handicapped Children Act (now called the IDEA).

We've Only Had 24 Years. We Need More Time

They need more time to come into compliance with a 24 year old statute? Do you suppose Pennsylvania has heard yet about the Pennsylvania A.R.C. v. Board of Education case in 1971 that started the federal special education law? Someone ought to help them find a copy.

If a student in a noncompliant district is one-day late with their homework they probably get a failing grade but the state department of education expects a blank check for being 24 years late.

The whiny agencies are focusing on what might happen to them if they lose the federal dollars. I would rather focus on what has been lost by two generations of students in that state who have suffered through arrogant non-compliance. How many thousands of lives have been crushed by the lawbreaking school districts — lives that might have completed an education, that might have gotten a high school diploma, that might not have dropped out, that might now be leading semi-independent or independent lives, that might now be employed, that might now be able to enjoy access to recreation and leisure activities in the community like the rest of us. Do any of those school administrators ever think about that, or even care about that?

They have been caught red-handed and like any well connected crook they refuse to admit any wrongdoing and call their lawyer (now that's a good way to spend scarce education dollars) and call their Congress persons and Senators.

What are the non-compliant school districts teaching by this behavior? They ought to be honest and offer a course in their high schools called "How to take money under false pretenses, lie, stonewall, and try to get away with it."

And that is where the federal Department of Education comes in. They remind the agencies that taking the money incurs an obligation. They could refuse the federal dollars, but no, they are down there at the federal trough every day lapping up their share. Someone should point out to the state department of education and these districts the statement of former Supreme Court Justice Byron White, writing for the majority in a 1983 Supreme Court case (463 U.S. at 599) on the obligation involved in taking federal funds: "Stop the discrimination, get the money; continue the discrimination, do not get the money."

The Pennsylvania Senators and Congressmen that signed the letter (saying please continue to reward the local districts for breaking the law and breaking the lives of so many children) are all Republicans so maybe they would respond more to a statement on this same topic by President Richard Nixon in 1971: "Neither the President nor the Congress nor the conscience of the Nation can permit money which comes from all the people to be used in a way which discriminates against some of the people."

So What Exactly Is The Problem?

The federal Office of Special Education Programs (OSEP) has found repeated problems with the Pennsylvania Department of Education (PDE). PDE has not systematically monitored since 1988. "OSEP identified extensive noncompliance in local agencies that PDE had not identified because it had discontinued consistent use of its compliance monitoring system." PDE also told OSEP that "PDE did not have the authority to withhold funds when public agencies failed to comply with State or Federal requirements."

OSEP then did some monitoring of its own in Pennsylvania. Among other districts, OSEP looked at Harrisburg School District (HSD) which had not been monitored since before 1988. OSEP found in HSD, among other things, large numbers of students with related services on IEPs that were not receiving those related services; extended school year services were available only for students with severe disabilities served in segregated facilities; and all students with severe disabilities and those students who use wheelchairs were placed in segregated facilities with no opportunity to interact with non-disabled peers. The majority of students 16 or older did not have transition services in their IEP and the notices sent out did not indicate that transition planning was a purpose of the meeting.

OSEP then required PDE to monitor HSD and "to impose sanctions or otherwise compel school districts to comply with State or Federal requirements." PDE issued an official document describing the steps PDE "may take where it does not succeed in obtaining prompt compliance."

It is a good list: "(1) a local special education plan may be disapproved; (2) the disbursement of State and Federal funds may be deferred; (3) the amount of funds may be reduced; (4) a court order may be sought to require the district to take specific action; (5) litigation initiated by parents can be joined by PDE"; and (6) PDE might commission someone to take over administration of the district.

Unfortunately, many further interactions between OSEP and PDE revealed that HSD was still far out of compliance and that PDE was still trying to make up its mind about what to do about HSD. OSEP made up its mind for them.

What Is The Solution?

"Because of PDE's failure to meet the terms and conditions of previous grant awards through the exercise of its general supervisory authority to ensure compliance with IDEA requirements, the Department of Education is imposing special conditions" on their next year's federal grant award. The number one "special condition" is for PDE "to demonstrate to the USDOE that PDE is appropriately exercising its general supervisory responsibility under the IDEA by taking the steps necessary to ensure that HSD fully complies with IDEA requirements including appropriate enforcement actions by PDE against HSD where HSD has failed to complete corrective actions in a timely manner."

USDOE then specifies, during the year that PDE is receiving funds under Special Conditions, what is expected in each of the quarters. The first priority to report on over the four quarters includes the steps that PDE has taken to ensure compliance from HSD and, if HSD has not completed the required corrective actions in a timely manner, the enforcement actions that PDE has taken against HSD.

That is the way it is supposed to work. The Feds are to assure that the States are assuring that the local districts are doing their job.

The order is signed by OSERS Assistant Secretary Judith E. Heumann. It would be nice to indicate our support to Tom Hehir, OSEP, which followed through on all the monitoring and Judy Heumann, OSERS, who ordered these lawbreaking agencies to cut it out.

Like any good positive behavior intervention plan we would want for our children, the OSERS "special conditions" point out what is being done wrong, indicates clearly what is to be done right, breaks it into a sequence of steps, gives sufficient time to accomplish the tasks, indicates the way performance will be measured, indicates how documentation will be kept, offers an appropriate reward for bringing the behavior into compliance (and subtly indicates the problem that will occur if there is continued non-compliance).

Instead of the whining from the Pennsylvania Congressional Republicans, Tom Hehir and Judy Heumann should be hearing from us about this model of how the law is supposed to work.

Did Anyone Think About Section 504?

Readers of this website know that we always think of Section 504. In fact, we think of it and the ADA before we think of IDEA remedies.

The PDE is a recipient of federal financial assistance (and not just IDEA assistance). PDE passes that on to local districts such as HSD so HSD is also a recipient. 34 C.F.R. 104.4(b)(4) of the Section 504 regulations provide:

"A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified disabled persons to discrimination on the basis of disability, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to disabled persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State."

OCR has ruled, in a policy memorandum, that a State Education Agency may be in violation of this section (and thus in violation of Section 504) if "the State Agency has knowledge of repeated, class violations of Section 504 and does nothing to correct the situation."

The above discussion of PDE as well as HSD problems suggests that PDE knows that HSD is engaging in repeated, class violations of student rights that are covered under Section 504 as well as under the IDEA and are thus putting all their federal funds in jeopardy under a second statute.

The Americans with Disabilities Act states at 42 U.S.C. 12201(a) that the ADA "shall not be construed to apply a lesser standard than the standards applied under Title V of the Rehabilitation Act of 1973 or the regulations issued by Federal agencies pursuant to such title." The United States Supreme Court ruled last June 25, in Bragdon v. Abbott, at 118 S.Ct. 2202 (1998): "The directive requires us to construe the ADA to grant at least as much protection as provided by the regulations implementing the Rehabilitation Act."

So state education agency knowledge of repeated, district wide violations, with no appropriate action, means that the state is violating Section 504 and the Americans with Disabilities Act. PDE's troubles may just be beginning.

We'll keep you posted, and keep watching ourwebsite for upcoming information about how to use this to help your advocacy in your own state.

This information is educational and not intended to be legal advice Reed Martin is an attorney with 30 years experience in special education law. He can be reached through email at connie@westco.net or <http://www.reedmartin.com> .

Original: 2144

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2001 MAR 27 AM 9:48

INDEPENDENT REGULATORY
REVIEW COMMISSION



PO Box 158
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Patsy J. Tallarico, PRESIDENT
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James P. Testerman, TREASURER
Carolyn C. Dumaresq, EXECUTIVE DIRECTOR

Affiliated with the National Education Association

March 2, 2001

Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
14th Floor
Pennsylvania Department of Education
33 Market Street
Hanover, PA 17105

Dear Mr. Nyce:

I am adamantly opposed to removing class size limits from Chapter 14 for special education students as proposed. Please vote no on any proposal that would eliminate special education class size.

Thank you for your support.

Sincerely,



Original: 2144



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Affiliated with the National Education Association

March 2, 2001

Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
14th Floor
Pennsylvania Department of Education
33 Market Street
Hanover, PA 17105

Dear Mr. Nyce:

I am adamantly opposed to removing class size limits from Chapter 14 for special education students as proposed. Please vote no on any proposal that would eliminate special education class size.

Thank you for your support.

Sincerely,

Shelene Bruno
Hazleton Area School District
McDermott - Kilgus Elem. School

I am a special education teacher & currently work in an inclusive setting. I have the experience of working with 18 to 22 special needs students, & it can be a challenging experience. It would be a disservice to this school age population to remove class size limits.

The PSEA mission

To advance quality public education for all students while fostering the dignity and worth of members through collective action.

Original: 2144

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11



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March 2, 2001

Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
14th Floor
Pennsylvania Department of Education
33 Market Street
Hanover, PA 17105

Dear Mr. Nyce:

I am adamantly opposed to removing class size limits from Chapter 14 for special education students as proposed. Please vote no on any proposal that would eliminate special education class size.

Thank you for your support.

Sincerely,

Sandra S. Clink





ORIGINAL: 2144

WEST PERRY SCHOOL DISTRICT

WINSTON E. CLELAND, Ph.D.

SUPERINTENDENT

2606 SHERMANS VALLEY ROAD

ELLIOTTSBURG, PENNSYLVANIA 17024-9706

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March 27, 2001

Robert Nyce
Executive Director
Independent Regulatory Review Commission
Harristown 2 - 14th Floor
333 Market Street
Harrisburg, PA 17101

RECEIVED
2001 MAR 29 AM 9:30
INDEPENDENT REGULATORY
REVIEW COMMISSION

Dear Mr. Nyce:

I am writing to you and the Commission to request your approval of the Chapter 14 special education regulations on April 5, 2001. These regulations, as submitted by the State Board, will give schools some flexibility in order to meet the needs of disabled children. The regulations already exceed federal requirements of the Individuals with Disabilities Education Act (IDEA).

West Perry School District has consistently provided quality educational programs for students needing special education services. Our caseload limitations, while adhering to Chapter 14, have always been driven by student needs. This past year, we started a multiple disabilities class at one of our elementary schools for two students. This intensive support provided by a full-time teacher and aide was what the school district endorsed as the best programming to meet those students' needs. It seems clear to me that decisions regarding class size should be made by local school districts.

I urge you to approve Chapter 14 on April 5, 2001. Thank you in advance for your consideration in this matter.

Sincerely,

David L. Suydam
Supervisor of Special Education

DLS/gcb
DS-4:CHAPTER 14
CC: Dr. Winston E. Cleland
Jeanne Temple
Dr. Richard Dale, CAIU

DAVID L. SUYDAM, Supervisor of Special Education

Education Service Center

775 Marion Road York, PA 17402 (717) 846-6789



ORIGINAL: 2144

March 26, 2001

Mr. John R. McGinley, Jr., Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

RECEIVED
2001 MAR 29 AM 9:41
INDEPENDENT REGULATORY REVIEW COMMISSION

Dear Mr. McGinley:

Please consider this letter as public comment regarding regulations scheduled for your review on April 5, 2001. Specifically, you will be reviewing a resubmission of revisions to 22 Pa. Code Chapters 14 and 342.

I respectfully request that the Independent Regulatory Review Commission (IRRC) approve the above regulations as submitted by the State Board of Education. The regulations already exceed the federal requirements of the Individuals with Disabilities Education Act (IDEA), and therefore contain sufficient regulatory protections for children with disabilities. The imposition of these regulations, even as submitted, imposes an unfunded federal mandate on the citizens of this Commonwealth: the federal government has never fulfilled its original promise to fund the IDEA at 40%. Instead, funding has historically hovered below 10%, and may currently be approaching 13%. Because of the severe under-funding of this federal mandate, the costs of special education, which are significantly rising each year, are passed on to citizens of the Commonwealth of Pennsylvania. Because the needs of children with disabilities routinely exceed the available resources, administrators need flexibility to direct our limited resources to serving children. More regulations mean less flexibility, and, therefore, more regulations mean less service for children with disabilities!

Linda E. Estep, Superintendent Gretchen L. McFarland, Assistant Superintendent
Lynne R. Barrow, Board Secretary James R. Duff, Business Manager Frances L. Knaub-Keller, Food Service Director
Thomas N. Seben, Supervisor of Special Education Barry L. Sharp, Director of Auxiliary Services Deborah K. Wilson, Director of Public Information

In its resubmission, the State Board has made some revisions pursuant to your disapproval order of 8 March 2001 and I hope you will consider these amendments in your decision.

Regarding the IRRC's concerns about the reasonableness of eliminating class size requirements, I would argue that class size requirements are an unfounded regulation. A winter 2001 research synthesis in CEC's research journal, Exceptional Children, stated:

...No identifiable caseload practice has consistently produced positive outcomes for students with disabilities.... The extant research provides few clear empirical directions for policymakers, administrators, and educators attempting to formulate consistent caseload policies. A myriad of complicating factors, which include inclusionary settings, cross-categorical models, and IDEA reauthorization, steer a complex problem into still murkier waters.

Regulating class size is bureaucratic micromanagement: it only serves to protect jobs and to provide litigation fodder, while at the same time hamstringing administrators. Regulating class size ignores the reality of how special education programs and services are delivered in 2001: the caseload restrictions alone will limit class sizes to current numbers by default. Regulating class size ignores the fact that the IDEA contains more than enough individual procedural protections for children with disabilities. Regulating class size diverts our limited resources away from serving children.

Where is the data to support class size restrictions as necessary to the public interest? I hope that the IRRC is not giving credence to anecdotal horror stories from advocates about the disastrous outcomes, which would result from eliminating class size restrictions.

In conclusion, it is time for the IRRC to fulfill its duty under the Regulatory Review Act and approve revised Chapter 14 (and the elimination of Chapter 342) as submitted by the State Board of Education. Revised Chapter 14 meets the criteria for review in Section 5.1(i) of the Act, and conforms to Governor Ridge's Executive

Order 1996-1. Most importantly, revised Chapter 14 is the right course of action, because it will allow administrators to direct our limited resources to serving children in the Commonwealth of Pennsylvania.

Thank you for your consideration. I am unable to attend the April 5, 2001 meeting of the IRRC because of a prior commitment that involves students in my school district. If I can be of any further assistance, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas N. Seben".

Thomas N. Seben
Director of Special Education

Cc: Mr. Alvin C. Bush
Mr. Arthur Coccodrilli
Mr. Robert J. Harbison
Mr. John F. Mizner

An Educational Service Agency

Dr. Frank J. Ferrari, Executive Director
Robert J. Keegan, Jr., Assistant Executive Director

Original: 2144
March 29, 2001

Mr. Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
333 Market St.
14th Floor
Harrisburg, PA 17101

Dear Mr. Nyce:

I am writing to comment on the Chapter 14 Special Education Regulations that the Independent Regulatory Review Commission (IRRC) will be reviewing for approval on April 5, 2001. It is my understanding that the IRRC will be reviewing a resubmission of revisions to 22 PA Code Chapters 14 and 342.

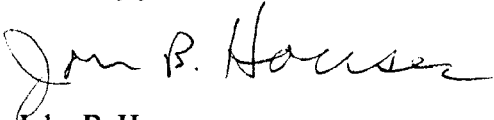
I am asking that the IRRC approve the regulations as submitted by the State Board of Education. In its resubmission, the State Board has made revisions pursuant to your disapproval order of March 8, 2001. The State Board of Education has chosen not to change the regulations in two areas that were indicated in the IRRC's disapproval on March 8. The regulations as they presently exist exceed the federal requirements of the Individuals with Disabilities Act (IDEA). They contain sufficient regulatory protections for all children with disabilities. The IRRC's suggestion to insert federal regulations into Chapter 14 is not necessary. Other adoptions by reference as exists in Chapter 14 are consistent with other regulations. For example, the monitoring and compliance system uses adoption by reference in the same manner as is proposed in Chapter 14.

The second area regarding the IRRC's is issues with eliminating the class size requirements. Regulating class size ignores the reality of how special education programs and services are delivered in Pennsylvania. The caseload restrictions will limit class sizes to appropriate numbers. IDEA contains more than enough individual procedural safeguards for children with disabilities.

In conclusion, I urge the Regulatory Review Commission to approve the revised Chapter 14 and eliminate Chapter 342 as submitted by the State Board of Education. The revised Chapter 14 meets the necessary criteria for the children of Pennsylvania to receive appropriate educational programs and services.

Thank you for your consideration in this matter. I plan on attending the April 5, 2001 meeting of the IRRC. If I can be of any assistance in this matter, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "John B. Houser".

John B. Houser
Director of Special Programs & Services

JBH:MF

CC: Frank J. Ferrari, Executive Director
Robert J. Keegan, Jr., Assistant Executive Director

Nyceltr

From: Charles Lambert [CJL@umsd.k12.pa.us]
Sent: Thursday, March 29, 2001 8:01 AM
To: IRRC@imc.state.pa.us
Subject: Chapter 14

I am writing to urge you to send the revised Chapter 14 to publication in the Pennsylvania Bulletin. As district special education administrator, the current confusion in trying to implement both the current Chapter 14 and IDEA 97 guidelines, currently two separate entities, is cumbersome. The proposed side-by-side draft which adopts IDEA 97 by reference, is not difficult to follow. It is certainly no more cumbersome than the current Chapter 14/342 document. Secondly, I am aware that class size is an issue. Quite frankly, as a district, it is usually more difficult to stay in compliance with the caseload requirements than the class size requirements. It is always our desire to provide the best education we can for our children. It would never be our desire to overload the number of students in a special education classroom. However, without the class size requirement, it would allow some flexibility in situations where class size is not the issue.

Again, I urge you to allow special education to move out of the "which regs are we following" mode we have been in for almost 4 years now.

Thank you for your consideration.

Charles J. Lambert, Ph.D.
Director of Special Education
Upper Moreland School District



Schuylkill Intermediate Unit
Serving the Needs of Education

JAMES S. FOGARTY, Ph. D.
Executive Director

GERALD ACHENBACH, Ed. D.
Assistant Executive Director

March 28, 2001

Original: 2144

Mr. Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
333 Market Street - 14th Floor
Harrisburg, Pennsylvania 17101

Dear Mr. Nyce:

Please allow me to submit this correspondence as public comment regarding the scheduled review, of revisions to Pa. Code Chapters 14 and 342, on April 5, 2001.

I respectfully request that the Independent Regulatory Review Commission (IRRC) approve the regulations as submitted by the State Board of Education. After carefully reviewing the proposed regulations I must conclude that, if approved with the State Board revisions, they will serve to address several important issues regarding the education of students with disabilities in the Commonwealth of Pennsylvania.

First, while the proposed regulations do closely mirror Federal Law, they also exceed the Federal requirements of the Individuals with Disabilities Education Act in specific areas. I believe these requirements do afford appropriate regulatory protections for children with disabilities. In addition, the regulations also address the unique needs for specific groups of children with disabilities in order to insure that they receive the educational protections to which they are entitled.

Second, the proposed regulations afford Local Education Agencies the opportunity to utilize their available resources to provide programs and services to children with disabilities in a creative, yet comprehensive manner. I encourage the members of the Independent Regulatory Review Commission to concur with the State Board in recognizing the integrity of Local Education Agencies to be responsible for the education of children with disabilities without continuing to impose all the severe mandates of the past. By doing so the Commission is directly challenging all educators to insure that the needs of students with disabilities continue to be an educational priority in the Commonwealth of Pennsylvania.

Finally, I believe the proposed revisions to Chapter 14 will provide parents/guardians and educators a unique opportunity to forge a new educational frontier for students with disabilities. While the proposed regulations continue to guarantee the protection of educational rights for children with disabilities, they also recognize the importance of providing Local Education Agencies with the flexibility to insure that each student receives an appropriate program and services based on his/her educational needs. To this end, we must unite and work together as a team to insure that our most valuable resource, our children, receive the educational services to which they are entitled.

RECEIVED
2001 MAR 30 AM 9:08
INDEPENDENT REGULATORY
REVIEW COMMISSION

**MR. ROBERT E. NYCE
EXECUTIVE DIRECTOR**

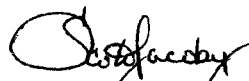
PAGE 2

In conclusion, I encourage the Independent Regulatory Review Commission to demonstrate its commitment and support for children with disabilities by approving the revised Chapter 14 (and elimination of Chapter 342) as submitted by the State Board of Education.

I wish to thank you for the opportunity to express my views on this extremely important issue.

I remain....

Yours in education,

A handwritten signature in black ink, appearing to read "Scott Jacoby", written over a horizontal line.

Scott Jacoby
Director of Special Education

SJ:cah



PANTHER VALLEY SCHOOL DISTRICT



Administration Office
11 E. Bertsch St.
Lansford, PA 18232
(570) 645-3176
Fax: (570) 645-3036

High School
Box 40, Rt. 209
Lansford, PA 18232
(570) 645-2171
Fax: (570) 645-2507

Middle School
11 E. Bertsch St.
Lansford, PA 18232
(570) 645-2175
Fax: (570) 645-9723

Elementary School
Mermon Ave.
Nesquehoning, PA 18240
(570) 669-9411
Fax: (570) 669-6043

Original: 2144

March 28, 2001

Robert Nyce, Executive Director
Independent Regulatory Review Commission
14th Floor, Harrisstown 2
333 Market St.
Harrisburg, PA 17101

RECEIVED
2001 APR -2 PM 5:39
INDEPENDENT
REGULATORY
REVIEW COMMISSION

Dear Mr. Nyce:

I am writing as a Panther Valley School Director. You may or may not be familiar with our district. We are located in Carbon County and operate our programs on limited resources.

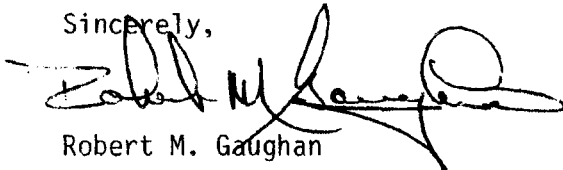
I strongly support the final approval of the Chapter 14 Special Education Regulations. The Panther Valley School District is representative of numerous poor, rural districts for whom the existing regulations are a hardship. Clearly, the fact that our PA state mandates exceed reasonable federal requirements is cause for concern. I will not even delve into the fact that our Special Education student experience in no way resembles the limited funding we receive. This is a source of great upset to myself and my board.

The class size changes in the revised regulations are reasonable. In fact, they will provide greater flexibility to our district, one that cannot easily budget additional Special Education classes once a school year begins. Special Education and teachers' union personnel will say otherwise, but you need to know that we closely monitor our programs and are subject to routine PDE audits. There is certainly no intent to overcrowd classes in the future.

I call on you to assist my district and others like it through your support of the revised regulations. Please do not be swayed by the expedient or the politically correct statements that will be made. My district lives in the real world. Be assured that no rights and privileges of Special Education students will be abridged.

I write on behalf of myself and the other eight Directors in the hope that you will do the right thing. Thank you.

Sincerely,


Robert M. Gaughan

LEGISLATIVE ALERT

URGENT
PLEASE FORWARD TO
EVERY MEMBER OF
YOUR SCHOOL BOARD
IMMEDIATELY

PSBA'S OFFICE OF GOVERNMENTAL AND MEMBER RELATIONS

Thomas J. Gentzel, Assistant Executive Director for Governmental and Member Relations

Timothy M. Allwein, Director of Legislative Services

Pennsylvania School Boards Association, 774 Linekiln Rd., New Cumberland, PA 17070-2398

Tel: (717) 774-2331; (800) 932-0588; FAX: (717) 774-0718

March 23, 2001

MAR 28 2001

cc: Rick Coffey

YOUR CALLS, LETTERS MADE THE DIFFERENCE ON CHAPTER 14 SPECIAL EDUCATION REGULATIONS - LETTERS TO IRRC NEEDED

Thanks in large part to your efforts, the Senate Education Committee, this past week, voted to approve the revised final-form Chapter 14 regulations addressing special education. After brief statements from several senators the committee voted 7-4 along party lines to approve the regulations. Moments later, the House Education Committee took up deliberation of the regulations. Due to the lack of a quorum, however, the committee was unable to take a vote. The Chapter 14 regulations, therefore, are deemed approved by both committees. This success is attributable to your phone calls, faxes and letters to legislators urging their support of the regulations.

However, we still need your help to ensure final approval of the Chapter 14 regulations. The Independent Regulatory Review Commission (IRRC) must vote on the revised regulations at a meeting scheduled for Thursday, April 5. Previously, the commission rejected the regulations by a 4-1 vote. While several revisions have been made, we believe the vote still will be close. If the commission disapproves the regulations, the General Assembly could bar implementation through the passage of a concurrent resolution. However, if the commission approves the regulations, full implementation is assured.

What You Can Do:

Please contact IRRC by letter or e-mail only. Letters should be addressed to Commission Executive Director Robert Nyce. The address for IRRC is 14th Floor, Harrisburg 2, 333 Market Street, Harrisburg, PA 17101. If you would like to send an e-mail, simply access the IRRC Web site at www.irrc.state.pa.us. Clicking on IRRC's e-mail address on the site's home page will enable you to compose and send an e-mail message. **Be aware that all correspondence to the commission must be received 48 hours prior to the April 5 hearing or it will not be considered.** We need school board members to attend the IRRC meeting to provide brief testimony. Last month's IRRC meeting was dominated by special education advocates and teacher's union representatives, which no doubt led to IRRC's disapproval of the regulations. If you are interested in attending the IRRC meeting for the purpose of providing public comment, please contact PSBA.

Advocacy Points: Here are advocacy points that can be used in your letters to encourage IRRC's support of Chapter 14:

- Chapter 14 provides needed flexibility for schools to best implement the rules for special education. It is an opportunity for state government to provide relief from state mandates that exceed federal requirements.
- School entities have trouble attracting and retaining special education teachers because of burdensome requirements and paperwork that are required under the existing regulations. The revised proposal will help alleviate these staffing problems.
- Class size restrictions are not federally required; most states do not have a class size mandate.
- Chapter 14 contains various protections and safeguards for children to receive necessary services. Combined with requirements under federal law and regulation as well as state and federal court decisions, this proposal gives students a fair and well-balanced system for the delivery of services. As a whole, Pennsylvania still will require more than what is federally mandated.
- The maximum caseload limitations under Chapter 14 effectively control class sizes while giving schools flexibility in their staffing needs and individual situations. Imposing rigid class size limits would mean that a school would have to hire additional staff if the number of students in a special education class exceeded the number by even just one student.
- It is inaccurate and inappropriate to assume that the elimination of the class size table will mean that school entities will suddenly move to overcrowd their classes. Many entities currently self-impose class size limitations below the maximums allowed based on their situations and individual students involved. Chapter 14 contains monitoring provisions as well as procedures for schools to be accountable to the Department of Education as well as parents and others for their scheduling plans.
- Finally, reassure IRRC that your district will maintain responsible class sizes to ensure that the rights and privileges of special needs students are not compromised.



RECEIVED

2001 APR -2 AM 9:46

INDEPENDENT REGULATORY
REVIEW COMMISSION

Original: 2144
March 28, 2001

John R. McGinley, Jr., Chair
Independent Regulatory Review Commission
14th Floor
Harristown Two
333 Market Street
Harrisburg PA 17101

Dear Mr. McGinley:

The Pennsylvania Association of Intermediate Units is sharing its position with you regarding the State Board of Education's proposed Special Education Regulations and, specifically, the caseload chart.

The Pennsylvania Association of Intermediate Units supports the State Board of Education's proposed Special Education Regulations, Chapter 14. The proposed ss14.142 Caseload for special education eliminates the "parenthetical numbers" which state the maximum number of students who may be in the classroom at one time. We do not believe the elimination of the class size/parenthetical numbers will have a negative impact on programs for students. We support elimination of the "parenthetical" class size numbers.

The proposal would enable school districts to request approval for a caseload chart which varies from the regulations. There appear to be appropriate safeguards within the proposal to prevent abuse. In addition, the extensive procedural safeguards and complaint process provide safeguards to parents and students. This proposed change is positive and will provide the flexibility needed to operate local programs in an effective manner. We support this proposal.

It is time to move forward and adopt these regulations and devote our energy to services and programs for our students. We encourage you to approve the proposed Chapter 14. Please contact us at once if you would like additional information.

Sincerely,

Linda O. Rhen, Chair, PAIU Special Education Committee
Executive Director, Lancaster-Lebanon IU 13
Phone: 717-560-4602; Fax: 717-560-6198

Thomas Finlan, Chair, PAIU Special Education Directors
Asst. Executive Director/Director of Special Education, Riverview IU 6
Phone: 814-226-7103; Fax: 814-227-2813

Lathrop Street Elementary School
14 Lathrop Street
Montrose, PA 18801-1197
Phone: 570-278-0310
Fax: 570-278-4799

Original: 2144

Junior-Senior High School
RR 3 Box 28
Montrose, PA 18801-9507
Phone: 570-278-3731 Opt. 2
Fax: 570-278-9143

MONTROSE AREA SCHOOL DISTRICT

Choconut Valley Elementary School
RR 1 Box 1730
Friendsville, PA 18818-9610
Phone: 570-553-2102
Fax: 570-553-2738

Administrative Offices
80 High School Road
Montrose, PA 18801-9507
Phone: 570-278-3731 Opt. 1
Fax: 570-278-4798

Mr. Robert Nyce
Commission Executive Director
14th Floor, 333 Market Street
Harristown 2
Harrisburg, PA 17101

March 28, 2001

Dear Sir:

We are writing to encourage the IRRC support of Chapter 14. We feel that Chapter 14 provides needed flexibility for schools to best implement the rules for special education. It is an opportunity for state government to provide relief from state mandates that exceed federal requirements.

School entities have trouble attracting and retaining special education teachers because of burdensome requirements and paperwork that are required under the existing regulations. The revised proposal will help alleviate these staffing problems.

Class size restrictions are not federally required; most states do not have a class size mandate.

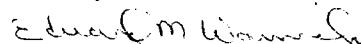
Chapter 14 contains various protections and safeguards for children to receive necessary services. Combined with requirements under federal law and regulation as well as state and federal court decisions, this proposal gives students a fair and well-balanced system for the delivery of services. As a whole, Pennsylvania still will require more than what is federally mandated.


The maximum caseload limitations under Chapter 14 effectively control class sizes while giving schools flexibility in their staffing needs and individual situations. Imposing rigid class size limits would mean that a school would have to hire additional staff if the number of students in a special education class exceeded the number by even just one student.

It is inaccurate and inappropriate to assume that the elimination of the class size table will mean that school entities will suddenly move to overcrowd their classes. Many entities currently self-impose class size limitations below the maximums allowed based on their situations and individual students involved. Chapter 14 contains monitoring provisions as well as procedures for schools to be accountable to the Department of Education as well as parents and others for their scheduling plans.

Finally, we like to reassure you that our district will maintain responsible class sizes to ensure that the rights and privileges of special needs students are not compromised.

Sincerely,



Dr. Edward Warnick
Superintendent
Montrose Area School District

Donald J. Golden
Coordinator of Special Education
Montrose Area School District

RECEIVED
2001 APR -2 AM 9:22
REVIEW COMMISSION

Keystone School District

451 Huston Avenue
Knox, PA 16232
Superintendent / Business Office
(814) 797-5921
(814) 797-2382 (fax)



Elementary
(814) 797-1251
(814) 797-0205 (fax)

High School
(814) 797-1261
(814) 797-2868 (fax)

Original; 2144

March 28, 2001

Director Robert Nyce
The Independent Regulatory Review Commission
14th Floor, Harrisburg 2
333 Market Street
Harrisburg, PA 17101

Dear Mr. Nyce:

As Superintendent of the Keystone School District, I assure you that we will maintain responsible class sizes—regardless of what Chapter 14 brings.

With the Procedural Safeguards in place, every Special Education student is guaranteed a Free and Appropriate Education. Individual Education Plans are designed to protect and provide for the educational needs of all eligible children.

Passage of the recommended Chapter 14 regulations will allow the Keystone School District the flexibility to provide for our children—without unreasonable bureaucratic regulations that may have no foundation in what is correct for an individual child.

Please vote for the changes in Chapter 14.

Cordially,

W. Barnett Knorr
Superintendent

WBK/klw

RECEIVED
2001 APR -2 AM 9:48
REVIEW COMMISSION

From: FRANK MELOY [meloy@aasdcad.com]
Sent: Wednesday, March 28, 2001 8:26 AM
To: IRRC@irrc.state.pa.us
Subject: Comments on Revised Ch. 14

RECEIVED
2001 MAR 28 PM 1:44

INDEPENDENT REGULATORY REVIEW COMMISSION

Mr. Robert Nyce, Director
Independent Regulatory Review Commission
Harrisburg, PA

Dear Mr. Nyce:

I am writing to urge the IRRC to approve the adoption of the State Board of Education's Revised Chapter 14. I feel strongly that Pennsylvania needs to align its special education regulations with the Federal Law. The controversial part of the Revised Chapter 14 regulations is the elimination of the class size requirement. Advocates and teachers argue that if this is eliminated school districts will dump children into special classes and create situations that will be detrimental to children. Please note that both Federal and State special education laws require school districts to provide an appropriate educational program for children and that there is no reference to class size in Federal Law. Parents have full due process rights whenever they feel that their child's educational needs are not being met.

The current special education regulation addressing class size is the PDE 342.42j. This was adopted as part of the special education standards in 1990 as a way to appease teacher unions. There has never been empirical research that would indicate you could only instruct 8 children at a time even though you may have 15 on a class roster. If the IRRC were to check with the PDE division of special education you would find that most school districts in the Commonwealth have received a citation at some time because of a special education class exceeding the class size limitation. Thus you have in effect a law that would not only cost school districts millions of dollars to implement, but it would be impossible to implement because of the limited supply of certified special education teachers and limited classroom space. Dr. William Hartman from Penn State University completed a research study with me in 1991 regarding the cost of implementing 342.42j on the 17 large urban school districts who belonged to the Pennsylvania League of Urban Schools (PLUS). Dr. Hartman and I asked school districts how many additional special education teachers would you need to hire if you were to fully implement 342.42j. Our results indicated that just in the PLUS school districts we would be looking at adding approximately 1000 additional special education teachers with millions of additional taxpayer dollars.

In our school district as well as most throughout the Commonwealth, the education of all of our students is an extremely important issue. In our district we have situations where we have one teacher and a teacher aide working with one student. We also have parents filing complaints with the state department of special education because there are 9 children in their child's class instead of 8. The department then does an on-site visit that typically results in a recommendation to add another special education teacher or to integrate more students into regular education. Of course there are no additional state dollars given to add another special education teacher.

The elimination of the class size requirement in the revised chapter 14 will not only put Pennsylvania in line with Federal Laws, it will also relieve school districts of complying with a regulation that has no relationship to good educational practice or to providing a good

educational program to a child.

Sincerely,

Dr. Frank Meloy
Assistant Superintendent Altoona Area School District

FORT LEBOEUF SCHOOL DISTRICT

34 EAST NINTH STREET

P.O. Box 810

WATERFORD, PENNSYLVANIA 16441

ADMINISTRATION BUILDING

PHONE 814-796-2638

FAX 814-796-6459

ORIGINAL: 2144

March 28, 2001

EMBARGOED MATERIAL

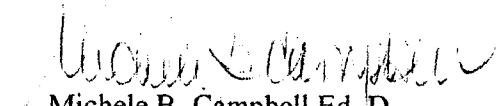
Dr. Robert Nyce, Commissioner Executive Director
Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

Dear Dr. Nyce:

Please consider the approval of the revised Chapter 14 regulations for special education. As you know, class size restrictions are not federally mandated and the flexibility at the local level for class size is important, particularly when the adding of one student to a class could mean the hiring of an additional teacher.

Thank you for your consideration.

Sincerely,



Michele B. Campbell Ed. D.
Assistant Superintendent
FORT LEBOEUF SCHOOL DISTRICT

MBC/kac

2001 APR -5 11:00 AM
RECEIVED
INDEPENDENT REGULATORY REVIEW COMMISSION
HARRISBURG, PA

Original: 2144



DERRY AREA SCHOOL DISTRICT

982 North Chestnut Street Ext.

Derry PA 15627-7600



Joseph A. Koluder, Jr.
Assistant for Business Affairs
Telephone: 724-694-1402
David P. McNichol
Director of Transportation,
Athletics and Special Funds
Telephone: 724-694-1406
724-694-1419 (Athletics)
Dennis L. Coppola
Psychologist/ Director of Special Programs
Telephone: 724-694-1408

Joseph A. Bellissimo
Superintendent
Telephone: 724-694-1401
FAX: 724-694-1429
Roberta J. Kuhns
Assistant Superintendent
Telephone: 724-694-1405

Rick Naeger
Supervisor of Buildings and Grounds
Telephone: 724-694-1415
Gwen Kozar
Food Service Director
Telephone: 724-694-2422
Barbara Visconti
Fiscal Manager/Board Secretary
Telephone: 724-694-1402

March 28, 2001

Robert Nyce
Commission Executive Director
IRRC
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

Dear Mr. Nyce,

I would like to encourage IRRC's support of Chapter 14 based on the following points:

- *Chapter 14 provides needed flexibility for schools to best implement the rules for special education. It is an opportunity for state government to provide relief from state mandates that exceed federal requirements.*
- *School entities have trouble attracting and retaining special education teachers because of burdensome requirements and paperwork that are required under the existing regulations. The revised proposal will help alleviate these staffing problems.*
- *Class size restrictions are not federally required; most states do not have a class size mandate.*
- *Chapter 14 contains various protections and safeguards for children to receive necessary services. Combined with requirements under federal law and regulation as well as state and federal court decisions, this proposal gives students a fair and well-balanced system for the delivery of services. As a whole, Pennsylvania still will require more than what is federally mandated.*

RECEIVED
2001 APR -2 AM 9:48
REVIEW COMMISSION

- *The maximum caseload limitations under Chapter 14 effectively control class sizes while giving schools flexibility in their staffing needs and individual situations. Imposing rigid class size limits would mean that a school would have to hire additional staff if the number of students in a special education class exceeded the number by even just one student.*
- *It is inaccurate and inappropriate to assume that the elimination of the class size table will mean that school entities will suddenly move to overcrowd their classes. Many entities currently self-impose class size limitations below the maximums allowed based on their situations and individual students involved. Chapter 14 contains monitoring provisions as well as procedures for schools to be accountable to the Department of Education as well as parents and others for their scheduling plans.*

I can reassure you that Derry Area School District will maintain responsible class sizes to ensure that the rights and privileges of special needs students are not compromised.

Sincerely,

Dennis L Coppula

*Dennis L. Coppula
Director of Special Services*

DLC/bh

CARLISLE AREA SCHOOL DISTRICT

623 West Penn Street

Carlisle, Pennsylvania 17013-2298 ORIGINAL: 2144

Gerald L. Fowler, Ph.D., *Superintendent*

Central Administration
717-240-6800

Fax
717-240-6898

2001 APR -5 10:36

March 28, 2001

EMBARGOED MATERIAL



Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Mr. Nyce:

Please consider this letter as public comment regarding regulations scheduled for your review April 5, 2001. You will be reviewing a resubmission of revisions to 22 PA Code Chapters 14 and 342. I respectfully request that the Independent Regulatory Review Commission (IRRC) approve the above regulations as submitted by the State Board of Education. The regulations already exceed the federal requirements of the Individuals with Disabilities Act (IDEA), and therefore contain sufficient regulatory protections for children with disabilities. These regulations, even as submitted, impose an unfunded federal mandate on the citizens of this Commonwealth. The federal government has never fulfilled its original promise to fund the IDEA at 40%. Therefore the costs of special education, which are rising significantly each year, are passed on to citizens of the Commonwealth of Pennsylvania. The needs of children with disabilities routinely exceed the available resources and administrators need flexibility to direct our limited resources to serving children. More regulations mean less flexibility, which translates into less services for children with disabilities!

In its resubmission, the State Board has made some revisions pursuant to your disapproval order on March 8, 2001. However, the Board has wisely chosen not to change the regulations in two areas. My comments are as follows.

- The IRRC's suggestion to insert federal regulations into Chapter 14, will not increase clarity, but will cause more confusion to the field, resulting in increased litigation and diverting our limited resources away from serving children. The IRRC's position on this matter is inconsistent since other executive agencies have been approved for adoption by reference.
- The IRRC's concerns about the reasonableness of eliminating class size requirements, has no research data to support it. Regulating class size ignores the fact that IDEA contains more than enough individual procedural protections for children with disabilities. Again, this regulation diverts our limited resources away from serving children. As much credence should be

given to administrators as is given to the anecdotes of advocates who predict dire consequences if the class size restrictions are eliminated.


The IRRRC needs to fulfill its duty under the Regulatory Review Act and approve revised Chapter 14 (and the elimination of Chapter 342) as submitted by the State Board of Education. Revised Chapter 14 meets the criteria for review in Section 5.1 (l) of the Act, and conforms with Governor Ridge's Executive Order 1996-1. Most importantly, revised Chapter 14 is the right course of action, because it will allow administrators to direct our limited resources to serving children in the Commonwealth of Pennsylvania without compromise.

Thank you for your consideration of my views in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Karen M. Mausner".

Karen M. Mausner
Associate Director of Special Education

A handwritten signature in cursive script that reads "Rita A. Warren".

Rita A. Warren
Assistant Supervisor of Special Education

Original: 2144

March 28, 2001

Mr. John R. McGinley, Jr., Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Mr. McGinley:

I would like to respectfully submit my comments for consideration by the Independent Regulatory Review Commission (IRRC) when it meets on April 5, 2001. At that meeting you will be reviewing revisions to 22 PA Code Chapters 14 and 342.

I am requesting that the IRRC approve the revisions to the Special Education regulations that are submitted by the Pennsylvania State Board of Education. Since revisions to the Individuals with Disabilities Education Act (IDEA 97) were passed in 1997, Pennsylvania has operated special education regulations without full compliance of federal law. The revisions submitted by the State Board of Education would incorporate the requirements of IDEA 97 and those additional requirements that are peculiar to Pennsylvania due to past case law. In fact, accepting these revisions would actually simplify the special education regulations that are imposed on the Commonwealth while giving additional flexibility to local school districts in meeting those regulations – school districts who pay the lion's share of special education costs.

I am also requesting that the IRRC consider accepting the elimination of class size. The existing class size regulations have no basis in research. There is no supporting data that shows a positive outcome of the class size numbers that special education in Pennsylvania has been forced to follow since their creation in 1991. In fact, the figures represent the whim of a former staffer who found herself in a power position in the Bureau of Special Education. They are typical of the bureaucratic micromanagement that the current special education regulations have imposed on the school districts of Pennsylvania.

I respectfully request that the IRRC meet its responsibility and approve the revised Chapter 14 regulations submitted by the State Board of Education without further delay. Please allow local school districts to use their limited resources to serve children with disabilities under the newly revised Chapter 14 regulations.

Sincerely,

Robert H. Cline

Robert H. Cline

cc: Mr. Alvin C. Bush
Mr. Arthur Coccodrilli
Mr. Robert J. Harbison
Mr. John F. Mizner

RECEIVED
2001 APR -2 AM 9:28
INDEPENDENT REGULATORY
REVIEW COMMISSION

Original: 0144



Providing Educational Services to the Capital Region

Division of Special Services • 55 Miller Street • P.O. Box 489 • Summerdale, PA 17093-0489
(717) 732-8400 ext. 504 • FAX (717) 732-8425 • TDD (717) 732-8422

28 March 2001

Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Mr. Nyce:

Please consider this letter as public comment regarding regulations scheduled for your review on 5 April 2001. Specifically, you will be reviewing a resubmission of revisions to 22 Pa. Code Chapters 14 and 342.

I respectfully request that the Independent Regulatory Review Commission (IRRC) approve the above regulations as submitted by the State Board of Education. The regulations already exceed the federal requirements of the Individuals with Disabilities Education Act (IDEA), and therefore contain sufficient regulatory protections for children with disabilities. The imposition of these regulations, even as submitted, imposes an unfunded federal mandate on the citizens of this Commonwealth. Since the needs of children with disabilities seem to exceed the available resources, administrators need flexibility to use the limited resources to serve children. More regulations mean less flexibility, and, therefore, more regulations often result in fewer services for children with disabilities.

In its resubmission, the State Board has made some revisions pursuant to your disapproval order of 8 March 2001. However, the Board has wisely chosen not to change the regulations in two areas. Persons far more knowledgeable than myself can provide data and research supporting the State Board's position. I find the information supportive of adopting the regulations as they are currently written.

It is time for the IRRC to fulfill its duty under the Regulatory Review Act and approve revised Chapter 14 (and the elimination of Chapter 342) as submitted by the State Board of Education. Revised Chapter 14 meets the criteria for review in Section 5.1(i) of the Act, and conforms with Governor Ridge's Executive Order 1996-1. Most importantly, revised Chapter 14 is the right course of action, because it will allow administrators to direct our limited resources to serving children in the Commonwealth of Pennsylvania.

Thank you for your consideration of my views in this matter.

Sincerely,

Cynthia Wolfe
Supervisor of Preschool Services

RECEIVED
2001 APR -2 AM 10:07
REVIEW COMM. HARRISBURG



NORTHGATE SCHOOL DISTRICT

ADMINISTRATIVE CENTER • 591 UNION AVENUE • PITTSBURGH, PA 15202-2958
PHONE: (412) 734-8061 • FAX: (412) 734-8008

REGGIE J. BONFIELD, ED.D.
SUPERINTENDENT

March 27, 2001

Commission Executive Director Robert Nyce
IRRC
14th Floor
Harristown 2
333 Market Street
Harrisburg, PA 17101

RECEIVED
2001 MAR 30 AM 8:54
HARRISBURG
REVIEW COMMISSION

Dear Mr. Nyce,

I have followed closely the evolvement of Chapter 14 Regulations for special education. I was very disappointed that the Independent Regulatory Review Commission recently voted to disapprove the proposal. I have been involved as a school administrator and in the area of special education for many, many years. These regulations appear to be a well-designed compromise which permits the district some flexibility in implementing the rules and programs for special education, while at the same time defending and protecting the rights and needs of all the children with disabilities. I do feel that the maximum caseload limitations under Chapter 14 effectively control class sizes, while giving schools the flexibility to hire and staff those specific classrooms as determined by the needs of the children within the classroom. Imposing rigid class size limits would actually mean that consideration not be given to the nature and degree of disability, but rather simply to the number of students in a special education class. I am convinced that my district as well as others will maintain responsible class sizes to ensure that the rights, privileges and educational needs of these students with disabilities are met.

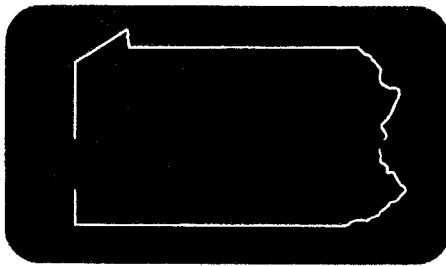
I would respectfully request that you support the Chapter 14 Regulations as most recently defined and submitted to the IRRC, especially as it relates to the elimination of the class size table. It is unnecessary to impose rigid class size limits on school districts.

Thank you for your attention given this very important legislation.

Sincerely,

Reggie J. Bonfield, Ed.D.
Superintendent

RJB/lld



Intermediate Unit 17

501 East Third Street
Williamsport, PA 17701
Voice: 570-323-8561
FAX: 570-323-1738

P.O. Box 63
Granville Summit, PA 16926
Voice: 570-673-6001
FAX: 570-673-6007

www.iu17.org

March 27, 2001

Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Mr. Nyce:

Please consider this letter as public comment regarding regulations scheduled for your review on April 5th, 2001. Specifically, you will be reviewing a resubmission of revisions to 22 Pa. Code Chapters 14 and 342.

I respectfully request that the Independent Regulatory Review Commission (IRRC) approve the above regulations as submitted by the State Board of Education.

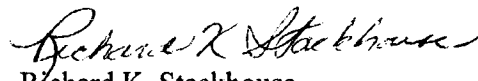
The State Board has made an extensive effort to craft a document that would establish a system of delivery of the highest quality educational services to students. Chapter 14 as proposed contains various protections and safeguards for children to receive necessary services. Combined with IDEA 97 and federal and state court decisions, this proposal gives students a fair and balanced system for delivery of special education services. And, furthermore, the board developed this document after many opportunities for public comment. The language in this proposal is consistent with comments heard by board members at many of the public hearings and round table sessions.

Chapter 14 is an opportunity for Pennsylvania to provide relief from state mandates that exceed federal requirements. We in the field of special education need that relief.

It is time to put aside the needs of special interest groups, and do what is right for children, parents, educators, and tax paying citizens of Pennsylvania.

Thank you for your time and consideration of this matter.

Sincerely,


Richard K. Stackhouse
Director of Student Services

RKS:plw

RECEIVED
2001 MAR 30 AM 9:08
INDEPENDENT REGULATORY
REVIEW COMMISSION

Original: 2144

IRRC

From: Bette Zook [Bzook@caiu.org]
Sent: Monday, March 26, 2001 3:32 PM
To: lrrc@lrrc.state.pa.us
Subject: Letter from Dr. Glenn Zehner re: Chapter 14



Chapter 14.doc

3/26/01; 3:28 p.m.

Please see the attached letter from Dr. Glenn Zehner, Executive Director of Capital Area Intermediate Unit. I will be mailing a hard copy of Dr. Zehner's letter in this afternoon's mail.

Bette Zook
Administrative Assistant
bzook@caiu.k12.pa.us
CAIU
55 Miller Street
Summerdale, PA 17093-0489
717-732-8400, ext. 633
Fax: 717-732-8421

RECEIVED
2001 MAR 27 AM 11:15
RECEIVED
RECEIVED
RECEIVED

March 26, 2001

Mr. Robert Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor, Harrisstown 2
333 Market Street
Harrisburg, PA 17101

Dear Mr. Nyce:

I am writing to you and the Commission to plea for approval of the Chapter 14 special education regulations on April 5, 2001. This matter needs resolution so that appropriate plans can be made for 2001-2002.

I am requesting that the Independent Regulatory Review Commission (IRRC) approve the regulations as submitted by the State Board. Schools need some flexibility in order to meet the needs of disabled children. The regulations already exceed federal requirements of the Individuals with Disabilities Education Act (IDEA).

The concern regarding class size, in my mind, is best left to local decision-makers. A winter 2001 research article in the Exceptional Children journal identifies no caseload practice that has produced positive outcomes for children. Regulating class size, when not done properly by districts, will eventually lead to violations of procedural safeguards and legal challenges. The maximum caseload limitations under Chapter 14, in actuality, control class sizes.

The Capital Area Intermediate Unit and its 24 districts have utilized class size maximums of four for autistic students and ten for emotional support students in IU-operated programs. We have done this because our districts have felt these limits are in the best interests of children.

I am also concerned about the growing number of disillusioned pre-professional and professional staff who are leaving the special education field because of the increasing burdens of regulations and paperwork that are required under existing regulations. We have several positions we cannot fill for exactly those reasons.

Your help is needed to approve Chapter 14. It is the right thing to do for disabled children, our districts, and our intermediate units.

Sincerely,

Glenn W. Zehner, Ed.D.
Executive Director

cc: Superintendents/Vocational Directors
Dr. Richard Dale

Z bz



Original: 2144

North Clarion County School District

10439 Route 36
Tionesta, PA 16353-9199

Business Office (814) 744-8536

Fax (814) 744-9378

Janice J. Wagner
Board Secretary

Rodney E. Hartle
Superintendent

Tina R. Karg
Assistant Board Secretary

March 27, 2001

Robert Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor, Harrisstown 2
333 Market Street
Harrisburg, PA 17101

RECEIVED
2001 MAR 30 AM 8:59
INDEPENDENT REGULATORY
REVIEW COMMISSION

Dear Mr. Nyce:

As the Superintendent of a small rural school district where the interest of all students is foremost in our thoughts, I am concerned about the need to approve the revised final form Chapter 14 regulations addressing special education. At a time when districts need regulations and standards that enhance a district's ability to provide quality services to students, I urge the commission to recognize the wisdom of approving these regulations. I can assure you that with respect to class size, which appears to be a major point of contention, the North Clarion County School District has no intentions to move toward larger class sizes. In fact we are looking at providing additional support to exceptional students in class settings where we are already below the present class maximum.

We appreciate your efforts in behalf of the youth of the Commonwealth and we respectfully request your approval of the revised final-form of the Chapter 14 regulations.

Sincerely,

Rodney E. Hartle
Superintendent

Original: 2144

IRRC

From: LSCHNETZKA@aol.com
Sent: Monday, March 26, 2001 9:42 PM
To: IRRC@irrc.state.pa.us
Subject: please distribute

Please distribute the attached letter to members of the IRRC on my behalf.
Thank you sincerely.

RECEIVED
2001 MAR 27 PM 11:15
IRRC
10

3/27/2001



**DALLASTOWN AREA SCHOOL DISTRICT
SPECIAL EDUCATION OFFICE
York Township Elementary School
2500 South Queen Street
York, PA 17402
(Telephone) 717-747-9400
(Fax) 717-747-0727**

March 26, 2001

Mr. John R. McGinley, Jr., Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Mr. McGinley:

Please consider this letter as public comment regarding regulations scheduled for your review on April 5, 2001. Specifically, you will be reviewing a resubmission of revisions to 22 Pa. Code Chapters 14 and 342.

Today while waiting for a doctor's appointment, I took advantage of the wait time to read the latest resubmission of the Chapter 14 revisions. I respectfully request that the Independent Regulatory Review Commission (IRRC) approve the above regulations as submitted by the State Board of Education. The regulations already exceed the federal requirements of the Individuals with Disabilities Education Act (IDEA), and therefore contain sufficient regulatory protections for children with disabilities. The imposition of these regulations, even as submitted, imposes an unfunded federal mandate on the citizens of this Commonwealth: the federal government has never fulfilled its original promise to fund the IDEA at 40%. Instead, funding has historically hovered below 10%, and may currently be approaching 13%. Because of the severe underfunding of this federal mandate, the costs of special education, which are significantly rising each year, are passed on to citizens of the Commonwealth of Pennsylvania. Because the needs of children with disabilities routinely exceed the available resources, administrators need flexibility to direct our limited resources to serving children. More regulations mean less flexibility, and, therefore, more regulations mean less service for children with disabilities! Some have argued that an excess cost funding formula encouraged districts to over-identify students in need of special education services. I have found the opposite to be more to the truth. The funds generated from federal funding in no way come near to the cost of services, therapists, staff, material, etc. Human resources are also limited for implementation of IDEA requirements.

Regarding the IRRC's concerns about the reasonableness of eliminating class size requirements, I would argue that class size requirements are an unfounded regulation. In the years in which I was a classroom teacher, the class size restriction more often restricted my instruction that assisted my instruction. On many occasions I wanted to provide some whole group instruction to my Learning Support students to build their background knowledge and skills for further individual development. The class size restriction prevented me from having a regular schedule to accomplish this. I believe the professionals must have the flexibility for grouping and classroom management to know when an IEP can be implemented or when it cannot, based on too many children and not enough staff support. Let the class size be dictated by ability to implement the IEP not on some number pulled out of the air with no sound research base.

In conclusion, it is time for the IRRC to fulfill its duty under the Regulatory Review Act and approve revised Chapter 14 (and the elimination of Chapter 342) as submitted by the State Board of Education. Revised Chapter 14 meets the criteria for review in Section 5.1(i) of the Act, and conforms to Governor Ridge's Executive Order 1996-1. Most importantly, revised Chapter 14 is the right course of action, because it will allow administrators to direct our limited resources to serving children in the Commonwealth of Pennsylvania.

I am unable to attend the April 5, 2001 meeting of the IRRC because of a prior commitment that involves students in my school district but I do thank you for your consideration. If I can be of any further assistance, please feel free to contact me.

Sincerely,

Lydia M. Schnetzka
Director of Special Education

Cc: Mr. Alvin C. Bush
Mr. Arthur Coccodrilli
Mr. Robert J. Harbison
Mr. John F. Mizner

IRRC

From: Terry Kirschler [TKirschler@burgettstown.k12.pa.us]
Sent: Monday, March 26, 2001 12:26 PM
To: 'IRRC@irrc.state.pa.us'
Subject: Chapter 14 - Special Education Regulations

RECEIVED

2001 MAR 26 PM 1:44

REVIEW COMMISSION

As Superintendent of the Burgettstown Area School District, I wish to express the views held by the district with respect to the current considerations to amend the Chapter 14 Regulations. In general, the district supports the revisions as presented. There are portions in which we are agreement and there are portions that we do not support. However, in balancing the "package," we find it to better provide for the interests of the students than what has existed in the past.

The District believes that the current proposal goes a long way to establish equity in dealing with the issue of special education. What sometimes is lost is the need to examine the impact upon the general education population. In the day-to-day operations of a public school system, that is an issue that is brought forward on an increasing basis by the parents of general population students.

It is understood that Pennsylvania must abide by the regulations and laws of the federal government, but what is not understood is the need to go beyond what is mandated to other states. Such is the circumstances surrounding maximum caseload and class size limitations.

Presently, the caseload limits control overburdening special education instructors in their delivery of services to special education students. Class size issues take it that "one step beyond." Our district is currently facing such an issue. We have one teacher who is over her class size limit by one to three students during three of seven periods a day.

We have been directed, under the current guidelines, to employ an aide for the balance of the current school term and to employ a new teacher at the outset of the upcoming school year. This can be done, but it removes funds from our budget that would have been used for other purposes. This impacts on all students.

When the teacher is employed for the next school term, we are then "stuck" with that teacher and position because our employment contract does not permit furloughing staff or eliminating a position without direct negotiations to discuss the position. We may well end up over-employed in special education and underemployed in regulation education classes as a result.

The elimination of class size limits would allow common sense to prevail and not the professional contract nor regulations having undesired effects upon the staffing of the district. As such, on behalf of the Burgettstown Area School District, I strongly urge you to approve the Chapter 14 regulations as presented.

Thank you.

IRRC

From: hcridler@epix.net
Sent: Sunday, March 25, 2001 4:01 PM
To: IRRC@irrc.state.pa.us
Subject: Chapter 14 Special Education Regulations

From: hcridler@epix.net
Date: 2001/03/25 Sun PM 01:53:59 EST
To: IRRC@irrc.state.pa.us
Subject: Chapter 14 Special Education Regulations

To: The committee

From: Celeste J. Ridler
Board Vice-President,
Montrose Area School District
Home Phone 570-278-9746

The following information is provided with hope that it will help with your decision on the revision of the Special Education Regulations that will soon be reviewed and voted on by your committee.

Chapter 14 provides needed flexibility for schools to best implement the rules for special education. It is an opportunity for state government to provide relief from state mandates that exceed federal requirements.

Please keep in mind that our district as many others also have trouble attracting and retaining special education teachers because of burdensome requirements and paperwork that are required under the existing regulations. The revised proposal will help alleviate these staffing problems.

It is really costly with class size restrictions that are not federally required; most states do not have a class size mandate.

Chapter 14 contains various protections and safeguards for children to receive necessary services. Combined with requirements under federal law and regulation as well as state and federal court decisions, this proposal gives students a fair and well-balanced system for the delivery of services. As a whole, Pennsylvania still will require more than what is federally mandated.

The maximum caseload limitations under Chapter 14 effectively control class sizes while giving schools flexibility in their staffing needs and individual situations. Imposing rigid class size limits would mean that a school would have to hire additional staff if the number of students in a special education class exceeded the number by even one student.

It is inaccurate and inappropriate to assume that the elimination of the class size table will mean that school entities will suddenly move to overcrowd their classes. Many entities currently self-impose class size limitations below the maximums allowed based on their situations and individual students involved. Chapter 14 contains monitoring provisions as well as procedures for schools to be accountable to the Department of Education as well as parents and others for their scheduling plans.

RECEIVED
2001 MAR 26 AM 8:58
REVIEW COMMISSION

You can rest assured that the Montrose Areas School District will maintain responsible class sizes that will ensure that the rights and privileges of special needs students are not compromised.

Our District understands the importance of giving all our students regardless of their position the best education possible. Costly mandates will not change our methods, only cost our taxpayer more.

Thank you for your considerations.

Celeste

Original: 2144

IRRC

From: kennyg [kennyg@epix.net]
Sent: Sunday, March 25, 2001 1:54 PM
To: IRRC@irrc.state.pa.us
Subject: Chapter 14 Special Education Regulations

RECEIVED

2001 MAR 26 AM 8:59

REVIEW COMMISSION

To: The committee

From: Kenneth Gould
Board President,
Montrose Area School District
Home Phone 570-553-2731

The following information is provided with hope that it will help with your decision on the revision of the Special Education Regulations that will soon be reviewed and voted on by your committee.

Chapter 14 provides needed flexibility for schools to best implement the rules for special education. It is an opportunity for state government to provide relief from state mandates that exceed federal requirements.

Please keep in mind that our district as many others also have trouble attracting and retaining special education teachers because of burdensome requirements and paperwork that are required under the existing regulations. The revised proposal will help alleviate these staffing problems.

It is really costly with class size restrictions that are not federally required; most states do not have a class size mandate.

Chapter 14 contains various protections and safeguards for children to receive necessary services. Combined with requirements under federal law and regulation as well as state and federal court decisions, this proposal gives students a fair and well-balanced system for the delivery of services. As a whole, Pennsylvania still will require more than what is federally mandated.

The maximum caseload limitations under Chapter 14 effectively control class sizes while giving schools flexibility in their staffing needs and individual situations. Imposing rigid class size limits would mean that a school would have to hire additional staff if the number of students in a special education class exceeded the number by even just one student.

It is inaccurate and inappropriate to assume that the elimination of the class size table will mean that school entities will suddenly move to overcrowd their classes. Many entities currently self-impose class size limitations below the maximums allowed based on their situations and individual students involved. Chapter 14 contains monitoring provisions as well as procedures for schools to be accountable to the Department of Education as well as parents and others for their scheduling plans.

You can rest assured that the Montrose Areas School District will maintain responsible class sizes that will ensure that the rights and privileges of special needs students are not compromised.

Our District understands the importance of giving all our students regardless of their position the best education possible. Costly mandates will not change our methods, only cost our taxpayer more.

Thank you for your considerations.

Ken

IRRC

From: jzahorchak@trojan.gjisd.k12.pa.us
Sent: Saturday, March 24, 2001 9:41 AM
To: IRRC@irrc.state.pa.us
Subject: Chapter 14 Special Education

Dear Commission Members:

I write to express support for the State Board of Education's final-form Chapter 14 regulations. Members of the Board of Education for the Greater Johnstown School District have expressed their support for the new regulations, especially as those regulations provide relief from state mandates that exceed the federal government's requirements.

Greater Johnstown School District is a poor, urban district. State mandates cause many undue burdens for any district, especially those that struggle to keep pace with wealthier communities. The new Chapter 14 demonstrates respect for districts like Johnstown's.

Chapter 14, as written by the Board, provides needed flexibility for schools to implement the rules for special education. We would never do anything less than provide appropriate education and services for our students, especially those with disabilities. However, the class size limits will cause our district to hire additional staff when the class size exceeds the rigid limits by even one student. This does cause undue hardships for our district. I would hope that our state would trust districts' boards and administrators to provide appropriate education for all students.

Sincerely,

Gerald L. Zahorchak, D.Ed.
Superintendent
Greater Johnstown School District
1091 Broad Street
Johnstown, PA 15906
814.533.5687
Fax: 814.533.5662
jzahorchak@trojan.gjisd.k12.pa.us

G. Zahorchak

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2001 MAR 26 AM 8:58
EDUCATION
REVIEW COMMISSION
TORY



Quality & Fairness in
Pennsylvania's Public Schools

EDUCATION LAW CENTER

RECEIVED

2001 APR -2 AM 10:06

REVIEW OF REGULATORY
COMMISSION

March 25, 2001

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Sol B. Vazquez-Otero, Esq.
Robert P. Vogel, Esq.

CO-DIRECTORS
Janet F. Stotland
Len Rieser

Mr. Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

RE: 22 Pa. Code Chapter 14

Dear Mr. Nyce:

On April 5, 2001, the IRRC will again consider whether to approve new PA regulations to govern special education programs for PA children ages 3 to 21. These regulations are essentially unchanged from the version that you rejected in March, by a 4:1 margin. They still substantially reduce protections for children with disabilities and their families, and will erode the quality of early intervention and special education programs.

We urge you again to reject these regulations. We believe that there are many serious policy and legal problems with proposed Chapter 14, and we have described these problems repeatedly and at length during the earlier stages of this regulatory process. I earlier shared with you my comments to the agency, and my letter to the federal Office of Special Education Programs setting out legal concerns.

However, for the purpose of next Thursday's meeting, my major message is that the State Board's and the PA Department of Education's decision to jettison class size and caseload will have a dramatic and negative impact on these children and families. I am already hearing complaints from families and advocacy groups that districts, in anticipation of the deletion of the caseload and class size maximums, are increasing special education class sizes. Make no mistake -- this problem will get much worse, very fast, if these regulations become law. And make no mistake that parents will be essentially without recourse when this occurs. The IEP and hearing process were never designed to be a substitute for thoughtful and family friendly state regulations, and they cannot, and will not, fill the gap.

Education Law Center-PA
The Philadelphia Building
1315 Walnut Street, 4th Floor
Philadelphia, PA 19107-4717
Phone: 215-238-6970
Fax: 215-625-9589
TTY: 215-238-5892
E-mail: elc@elc-pa.org

Education Law Center-PA
1901 Law & Finance Building
429 Fourth Avenue
Pittsburgh, PA 15219
Phone & TTY: 412-391-5225
Fax: 412-391-4496
E-mail: elc@elc-pa.org

PA School Reform Network
317 North Front Street, 1st Floor
Harrisburg, PA 17101
Phone: 717-238-7171
Fax: 717-238-7552
TTY: 215-238-5892
E-mail: psrn@elc-pa.org

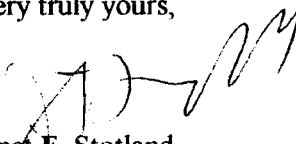
The IRRC has also put its finger on the other major problem with these regulations – no one will be able to understand them. There is simply no justification for the State Board and the Department of Education to insist on referring to federal regulations, and grouping them largely in one section (rather than, as DPW has done with the Infants and Toddlers with Disabilities regulations, setting out the relevant federal and state language in one comprehensive package).

Finally, it is worth noting that the only substantive change made by the State Board in March created a conflict with federal law. The latest draft includes all foster parents in the definition of “parent” – thus allowing foster parents to give consent and to participate in the development of children’s programs even when there are birth parents available to perform these functions.

Under federal law, foster parents are considered to be “parents” only when the, “natural parents authority to make educational decisions on the child’s behalf has been extinguished under State law;” the foster parent has an on-going and long term relationship with the child; the foster parent has no conflict; and the foster parent is willing to accept this responsibility. 34 CFR Section 300.20 (b). Instead of putting all foster parents in the definition of “parent,” the regulations should make clear that foster parents can and should be considered as “surrogate parents.” Surrogate parents must be appointed when there is no birth parent available to perform parental functions in the special education process. See, 34 CFR Section 300.515.

At the last IRRC meeting, for the first time, families and advocates were heard. The arguments have not changed. The regulations have not improved. We urge you to stick to your principles, and again to reject these ill conceived regulations.

Very truly yours,



Janet F. Stotland
Co-Director

Original: 2144



Pennsylvania Association of School Administrators

2579 Interstate Drive ~ Harrisburg, PA 17110-9602
(717) 540-4448 (717) 540-4405 fax www.pasa-net.org

March 23, 2001

Mr. Robert Nyce, Exec. Dir.
Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

RECEIVED
2001 MAR 23 AM 11:21
INDEPENDENT REGULATORY REVIEW COMMISSION

Dear Mr. Nyce:

The Pennsylvania Association of School Administrators supports the State Board of Education's revisions to the state's Special Education Regulations (22 PA Code sections 14.01 et. seq.). The association respectfully urges the commission to approve the chapter as revised.

Many of the revisions are necessary to bring Pennsylvania into compliance with federal law. Others eliminate ambiguity between the state and federal requirements by eliminating overlapping provisions. And others provide school districts with the appropriate level of flexibility to design programs that meet the needs of the students they serve.

Among the areas where greater flexibility is provided is in determining individual program staffing patterns.

The class size requirements in the current regulations comprise one of the most onerous state obligations placed on school districts. The existing class size limits were devised for an old model based on discreet groupings of children in separate classes. The class size chart, sought by some who oppose the regulations as revised, does not translate easily to current organizational patterns designed to provide eligible children with special education supports in the full range of regular school programs. Today's inclusionary practices render the existing caseload requirements obsolete. Indeed, rigidly prescribed class size requirements actually hinder a school's ability to provide the most appropriate education for children, and unquestionably bind a school district financially with no enhancement of services.

The State Board of Education's revisions better reflect current school practices and today's model of service delivery to students with disabilities, while providing for oversight of the quality of the education provided through state review of school district plans and state monitoring of district programs.

PASA urges approval of the revised Chapter 14 regulations. They were unanimously adopted by the State Board of Education. They provide a fair and balanced approach to providing services for children in Pennsylvania and encourage a continuing partnership between home and school in serving the needs of parents and their children.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Stinson W. Stroup", written in a cursive style.

Stinson W. Stroup
Executive Director

Original 2144

IRRC

From: moon [moon@pikeonline.net]
Sent: Saturday, March 24, 2001 10:14 AM
To: IRRC@irc.state.pa.us
Subject: Chapter 14 Passage

To My Legislators:

I support passage of Chapter 14 and sincerely hope you will vote on it favorably. Sincerely, James L. Mooney

Milford, PA

RECEIVED
2001 MAR 26 AM 8:58
LEGISLATIVE
REVIEW COMMISSION

3/26/2001

Original: 2144

Thomas G. Finlan
20255 Route 68
Clarion PA 16214

RECEIVED

2001 MAR 26 AM 9:32

INDEPENDENT REGULATORY
REVIEW COMMISSION

March 23, 2001



John R. McGinley, Jr., Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg PA 17126

Dear Mr. McGinley:

I am writing to you to express my disappointment with your disapproval of the proposed revisions to Pennsylvania's Special Education Regulations and Standards (22 PA code, Chapters 14 and 343). Even though your Disapproval Order listed several concerns, it seems to me, based on public reaction, that what is of paramount concern is the class size chart, specifically the so-called "parentethical numbers" establishing the maximum number of students with one teacher at one time.

I believe that the class size chart as it is currently constructed is over valued by some and actually makes little sense in practical applications.

If a cursory look at the chart shows the following: A high school learning support teacher with fifteen students could be listed as a *Full Time*, *Part Time*, *Resource Room*, or *Itinerant* Teacher. (It is up to the school district to decide.) If that teacher is listed as *Full Time*, she may teach up to 15 students at any one time, but that same teacher if listed as *Itinerant* may only teach 6 of those same students at one time. How can that make sense? The same students with the same teacher would be arbitrarily limited in number based on assignment to a *Type of Service* that is not even defined in law. Or, to look at it another way, if there are two Learning Support teachers in the same high school, one could be limited to seeing no more than 6 students per class while her colleague could see up to 15 per class. How can that make sense?

Furthermore, students assigned to a *Full Time* special education program usually have greater needs than students who are assigned to an *Itinerant* Program. Yet, the attention of the *Full Time* teacher is devoted to 15 students for 8 periods per day while the attention of the *Itinerant* teacher is devoted to 6 student for 8 periods a day. The *Full Time* teacher's student contacts are 120 per day (15 X 8) while the *Itinerant* teacher's student contacts are 48 per day (6 X 8). The very system, which is aimed at limiting the number of students with a teacher, is applied in reverse order to common sense needs. The teacher's attention to individual student needs is limited with the more needy students and available to the less needy students.

It only seems reasonable to say that if one special education teacher can teach 15 Full Time Learning Support Students, then another teacher in that same building should be able to teach 15 Itinerant or Resource Room Support Students at one time regardless of the configuration. To say otherwise defies logic.

I urge you to approve the proposed revisions to Pennsylvania's Special Education Regulations and Standards as presented. Do not fall prey to the hyperbole that students will be hurt by a change to the Caseload Chart when the chart is unfairly applied to students' needs now.

If you have any questions regarding my comments, please call me at home (814-745-2655) or at work (814-226-7103 ext. 105).

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas G. Finlan".

Thomas G. Finlan

C: Albert J. Glennon
 Governor Tom Ridge
 Dr. Peter H. Garland
 Independent Regulatory Review Commission
 Charles B. Zogby
 Fran J. Warkowski

Original: 2144

IRRC

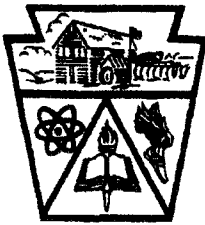
From: springmontpipes@webtv.net
Sent: Friday, March 23, 2001 8:38 PM
To: IRRC@irrc.state.pa.us
Subject: Chapter 14 Regulations and April 5 Hearing

Commissioner Nyce

As a school director at Wilson School District in Berks County for the last 15 years, I have watched the special education program "wag the dog", so to speak, with it's unwavering requirements. The newly Senate-passed update is much more in tune with what is both workable for the district and supportive of the special needs students. Wilson has elected to maintain its own program for the last ten (?) years, attracting students from many nearby school districts. This latest version of the regs will not alter our mission to provide quality programs for our enrolled students. I respectfully request that its adoption be approved on April 5th.

Gary Collier
Treasurer and Board Member
Wilson S D Berks County

RECEIVED
2001 MAR 26 AM 8:58
REVIEW COMMISSION



Big Spring School District
Office of the Superintendent of Schools
Dr. William K. Cowden



ORIGINAL: 2144

March 23, 2001

Robert Nyce, Executive Director
IRRC
14th Floor, Harrisburg
333 Market Street
Harrisburg, PA 17101

RECEIVED
2001 MAR 28 AM 10:53
REVENUE CONNECTIONS
10

Dear Executive Director Nyce:

I am writing to urge your support for the Chapter 14 regulations being promulgated by the State Board of Education.

At a time when the Commonwealth appears to recognize that school districts need flexibility to address the intricacies of special education, the legislature has the opportunity in this instance to provide relief from a state mandate that exceeds federal regulations. At Big Spring, we have had to seek a number of emergency certificates for special education teachers because there is not a sufficient number of certificated special education teachers. Some prospective special education teachers have suggested that they are reluctant to become special education teachers because they are apprehensive about the rules and regulations that burden them but do not help the students in their care.

The regulations proposed by the State Board of Education in Chapter 14 ensure that Pennsylvania will continue to require more than is required by the federal government. As you know, most states do not have a class size mandate, and the federal government does not require a class size mandate. The Pennsylvania Department of Education monitors the special education programs for all school districts in the Commonwealth, and school districts must document and justify special education program offerings. The regulations and procedures being recommended by the State Board of Education will not do anything that would impact negatively on the Department of Education's special education oversight, oversight that ensures effective and efficient special education programs.

Requiring school districts to adhere to inflexible class size limitations, limitations that are arbitrary as well, places school districts in the unenviable position of not being able to budget for programs. I would urge you to ask anyone who supports the arbitrary class size limitations to justify how they arrived at the class size limitations. Where is the

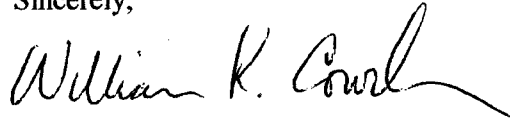
Page 2 of 2, Executive Director Nyce

documented, accepted research that supports the specific class size limitations being proposed by those who oppose the State Board's version of Chapter 14?

The Big Spring School District and all other school districts with which I have some knowledge care about all of our students. We ensure that students are placed in classes that meet their needs. We will continue to do so, and we do not need arbitrary rules and regulations to force us to do the work we are so proud of doing.

Thus, I urge you to support the State Board of Education's version of Chapter 14, and I stand prepared to assist you if you have any questions about this important matter. I thank you for your consideration.

Sincerely,

A handwritten signature in black ink, reading "William K. Cowden". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Dr. William Kerr Cowden
Superintendent of Schools

cc: Board of School Directors

Original: 2144

THE SCHOOL DISTRICT OF PHILADELPHIA
BOARD OF EDUCATION
21ST STREET S. OF THE PARKWAY
PHILADELPHIA, PENNSYLVANIA 19103-1099

OFFICE OF GOVERNMENT RELATIONS

TELEPHONE (215) 299-7502
FAX (215) 299-3655

March 22, 2001

Mr. Robert Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

Dear Mr. Nyce:

I strongly urge you to support the proposed Pennsylvania State Board of Education Chapter 14 regulations governing the provision of special education services. These proposed regulations provide relief from elements of the state's regulations that go beyond the requirements of the federal Individuals with Disabilities Act and its regulations. Taken together, safeguards included in the IDEA and the proposed Chapter 14 regulations provide ample protection of special education students' rights to Free and Appropriate Public Education. The proposed Chapter 14 regulations do not compromise educational services, but instead provide local school districts with increased flexibility to ensure quality education for all students.

Mandates in the existing regulations do not take into account the unique needs of each school community. Class size mandates, for example, impede the delivery of educational services by adding bureaucratic and financial obstacles for local school districts and make planning and budgeting unnecessarily difficult. Onerous restrictions and paperwork also exacerbate the shortage of special education teachers, a critical problem in Philadelphia.

Through the IDEA, the federal government has provided more than sufficient protections for our students. The state should not layer on additional requirements that are costly and unnecessary. The proposed Chapter 14 regulations maintain strong protections for students with disabilities while providing local districts with flexibility that will improve our ability to program for all students in their neighborhood schools and to respond to the needs of a sometimes transient population. Please support the proposed Chapter 14 regulations.

Sincerely,

Gary W. Ledebur

RECEIVED
2001 MAR 27 10:10:01
INDEPENDENT REGULATORY REVIEW COMMISSION

Original: 2144

Mrs. Elizabeth (Betsy) Miller
175 North Fairville Avenue
Harrisburg, PA 17112
(717) 652-1766

Mr. Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

March 22, 2001

Dear Mr. Nyce:

I am writing to you and asking that you distribute copies of my letter to the members of the IRRC.

Please do not approve the special education regulations that eliminate class size limits. Class size limits are vital for the well-being of our special education students. I am the mother of a daughter who is autistic and mentally retarded.

It speaks volumes that the people who want to retain these class size limits are parents (who live with special needs children) and teachers (who work with these children).

On the other hand, the people who advocate eliminating the limits are school board members and school administrators, who don't interact with the children. How easy for them to say that this will have no impact on the children.

I was particularly disturbed by Senator Rhoades' comments after the Senate Education Committee voted to approve the regulations. He said the Education Department will monitor the number of complaints received and due process hearings, to see if class-size-limit cuts are working.

In other words, we will take away a basic right from parents and children, and then make them fight to get it back. If they are too exhausted or confused to mount the fight, we will assume everything is peachy-keen.

Believe me, many parents are much too exhausted and confused/discouraged by the process to get into these fights. I speak as the parent of one child. But in my autism support group alone, I know several parents who have two children with autism. It takes all their energy to hold down jobs, do the laundry, make a simple supper and help the kids with homework. Why must they do battle with the state to get back something that never should have been taken away in the first place?

I praise you for not accepting these regulations the first time they came before you. Please do so again, for the sake of children who must struggle every day to have a meaningful life.

Sincerely,



Elizabeth (Betsy) Miller

RECEIVED
2001 MAR 26 AM 10:07
INDEPENDENT REGULATORY
REVIEW COMMISSION

Mrs. Elizabeth (Betsy) Miller
175 North Fairville Avenue
Harrisburg, PA 17112
(717) 652-1766

RECEIVED

2001 MAR 26 AM 10:07

INDEPENDENT REGULATORY
REVIEW COMMISSION

Mr. Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

March 22, 2001

Dear Mr. Nyce:

I am writing to you and asking that you distribute copies of my letter to the members of the IRRRC.

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On the other hand, the people who advocate eliminating the limits are school board members and school administrators, who don't interact with the children. How easy for them to say that this will have no impact on the children.

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In other words, we will take away a basic right from parents and children, and then make them fight to get it back. If they are too exhausted or confused to mount the fight, we will assume everything is peachy-keen.

Believe me, many parents are much too exhausted and confused/discouraged by the process to get into these fights. I speak as the parent of one child. But in my autism support group alone, I know several parents who have two children with autism. It takes all their energy to hold down jobs, do the laundry, make a simple supper and help the kids with homework. Why must they do battle with the state to get back something that never should have been taken away in the first place?

I praise you for not accepting these regulations the first time they came before you. Please do so again, for the sake of children who must struggle every day to have a meaningful life.

Sincerely,



Elizabeth (Betsy) Miller

Dear Mr. Bush,

I wanted to add a personal note to your letter. You don't know me, but I feel that I know you somehow.

I am the daughter of Carl and Edith Persun and I grew up in Cogan House Twp. My dad's sister and her husband are Cliff and Virginia Wentzler, of Pennsdale.

Thank you for taking the time to read my letter.

Sincerely,
Betsy Miller

IRRC

From: susan.dixon@juno.com
Sent: Thursday, March 22, 2001 9:01 AM
To: Fwarkomski@state.PA.us
Cc: susan.dixon@juno.com; rice7980@city-net.com; writerforhire@juno.com; dmorriso@pahouse.gop.com; Tmurphy@pasen.gov; irrc@irc.state.pa.us
Subject: Chapter 14

Disabled kids win funds
Schools long failed to provide services

Pat Kossan
The Arizona Republic
March 19, 2001 12:00:00

Arizona education chief Lisa Graham Keegan and the state Department of Education failed for years to protect the rights of disabled students, according to a federal class-action lawsuit expected to be settled next week.

Now the department must make up for damage done.

After losing a bid to have the case dismissed, the department has agreed to repay parents for therapy their children should have gotten at school, and give kids extra tutoring and services to help compensate for lost time.

No one is willing to guess what the settlement will cost the state or schools, but one district is anticipating \$100,000 in additional costs next school year.

Parents in the lawsuit turned to the state after their school districts did not provide special education services the parents felt their children needed. But the Department of Education didn't follow through as required by state and federal laws, the lawsuit charged, even when its own investigators backed the parents complaints.

State officials would write a letter instructing the school to provide the services, but stopped there. They rarely insisted or mediated, and never withheld money to ensure the services were offered.

As a result, some districts didn't comply.

Many children went years without speech or physical therapy, special education or tutoring, which the department knew the students were legally entitled to receive, according to the lawsuit by the Arizona Center for Disability Law.

"This is a class-action lawsuit where parents felt they weren't being heard," said Patti Likens, spokeswoman for Keegan. The superintendent of public instruction was unwilling to personally discuss the possible settlement.

Likens said the districts are to blame for the lawsuit, since they failed to follow Department of

Education directives.

"Generally speaking, it was our impression that the local level was taking care of it and that wasn't happening," Likens said. "The state special education investigators are now going in and being more active at the school level."

Since 1997, about 1,000 parents have complained to the Department of Education about lack of special education and services at their schools, and investigators have backed about 300 of those complaints. If any of those 300 parents did not receive the services their children needed, they can file a claim in the next 18 months with a new five-member commission, made up of volunteers appointed by both sides of the lawsuit.

The new commission could decide to repay parents for out-of-pocket expenses, such as speech therapy or tutoring, which can run more than \$50 an hour, or require the offending district to provide students extra hours of therapy and services.

Under the proposed settlement, the Department also must be more responsive to complaints and strictly enforce laws, even if it means withholding special education money from a district or shutting down a charter school.

"We shouldn't have a situation where that happens," said John Pedicone, superintendent of Flowing Wells Unified District in Tucson and an Arizona School Administrators Association board member. "We should be monitoring ourselves and, if we are not, we should be cleaning up our collective acts."

Cleanup costs could run high for some districts.

Paradise Valley Unified School District, the third largest in the state, has nearly 4,000 special needs students and has had six complaints filed with the Department of Education this school year.

If this settlement is approved, the district anticipates spending about \$100,000 a year for the next two years to repay parents and offer students extra therapy services, Special Education Director Laura Bistrow said. She expects her budget to remain about \$50,000 higher each year after that because of a stricter state compliance policy that would be forced by the settlement, which Bistrow clearly doesn't like.

"I don't feel school districts were involved in that and I don't think we had good representation," Bistrow said, adding that once the first parents receive compensation, more and more parents will start making costly demands. "It's more sure than winning the Powerball."

Sheila Acres tried for months to get her son Justin Simons, 17, into a Paradise Valley High School. Julian reads and does math at about a first-grade level, knows rudimentary sign language, and must be fed by a tube. But he did so well at a Roosevelt Elementary District

grade school that kids gave him a standing ovation at his eighth-grade graduation.

"You can't help but love him," Acres said. "He's so much fun."

Then Justin moved to a group home in the Paradise Valley School District. Officials there wanted to send him to a school for special kids, according to the lawsuit. But Acres knew Justin would be isolated at the special school and that he flourished on a regular campus. He is motivated by other kids his own age, Acres said, and he loves to attend school pep rallies and band concerts.

"But they just kept putting me off, and putting me off," said Acres, who took her complaints to the Department of Education, where investigators agreed and sent the district a directive to enroll Justin. But nothing happened, according to the lawsuit.

Acres called the Center for Disability Law and Justin became one of five students representing all disabled students in the class-action lawsuit filed two years ago.

"I was ready," Acres said. "I knew something had to be done and I knew a lot of other people who were not getting services."

This year, Justin started at the bustling Shadow Mountain High School campus, attending class with five other disabled kids.

The settlement goes before a federal judge for final approval next Monday.

Reach the reporter at pat.kossan@arizonarepublic.com or (602) 444-8960. <http://www.arizonarepublic.com/news/articles/0319special19.html>

Tri-Valley School District

Original: 2144

1801 West Main Street
Valley View, PA 17983

570-682-9013
Fax 570-682-9544

RECEIVED

2001 MAR 22 AM 10:01

INDEPENDENT REGULATORY
REVIEW COMMISSION

March 21, 2001

John R. McGinley, Jr.
333 Market Street
Harrisburg, PA 17101

Dear Sir or Madam:

I am writing to express my concern with the Independent Regulatory Review Commission's (IRRC) disapproval of the revisions to Pennsylvania Special Education Regulations and Standards (22 Pa. Code – Chapters 14 and 342). As a public school official and educational advocate for children with disabilities in Pennsylvania, I must express my grave concerns regarding this action by the IRRC. School districts and Intermediate Units continue to be faced with serving children who have increasingly comprehensive as well as complex educational needs.

The burden of federal special education regulatory requirements has consistently increased since 1975. Unfortunately, funding for those requirements has and continues to be, at best, inadequate. This combination of extensive regulatory requirements and inadequate funding has, in my opinion, contributed to the deterioration of a once proud and respected education system for students with disabilities in the Commonwealth of Pennsylvania. I would strongly encourage you to support the version of Chapter 14 that was recently disapproved by the IRRC. This proposed version reflects the federal regulations with selected Pennsylvania specific regulations. I believe that this version of Chapter 14 would provide a comprehensive and effective means of meeting the needs of students with disabilities in the Commonwealth of Pennsylvania.

To our dismay, we learned that there may be the impression that educators are not committed to the proposed version of Chapter 14. Please know that during the past two years, complete and accurate testimony was provided by educators. That guidance was heard and applied as the proposed version of Chapter 14 was being developed. I remain committed to Chapter 14 as proposed and ask that you also support this critical and appropriate regulation.

Sincerely,



Robert E. Franklin, Jr.
Superintendent

CC: Eugene W. Hickok, Secretary of Education
Dr. Peter H. Garland, State Board of Education
Dr. Fran J. Warkomski, State Director of Special Education
John R. McGinley, Jr., Independent Regulatory Review Commission

Original: 2144

IRRC

From: molly chapman [mollychapman@hotmail.com]
Sent: Wednesday, March 21, 2001 11:10 AM
To: IRRC@irrc.state.pa.us

RECEIVED
2001 MAR 21 AM 11:34

RECEIVED
REVIEW COMMISSION



From: mollychapman@hotmail.com
To: RobertNyce@irrc.state.pa.us
Subject: Chapter 14 regulations
Date: Wed, 21 Mar 2001 11:07:43 -0500

Dear Director Nyce,

I am writing to you as a school board member in a district where we have a large number of special ed children and classes to urge you to support the passage of the new Chapter 14 regulations. these new regs would

help us do a better job or serving our children. Thanks you for your support, Molly Chapman

Danville Area School District
mollychapman@hotmail.com

Get your FREE download of MSN Explorer at <http://explorer.msn.com>

WEST MIFFLIN AREA SCHOOL DISTRICT

Original: 2144

515 CAMP HOLLOW ROAD • WEST MIFFLIN, PA 15122-2697
(412) 466-9131 FAX (412) 466-9260

DR. JOSEPH C. DIMPERIO
Superintendent of Schools

March 19, 2001

Mr. Robert Nyce, Executive Director
IRRC
14th Floor Harristown 2
333 Market Street 02020
Harrisburg, PA 17101

Dear Mr. Nyce:

RE: Chapter 14 Regulations

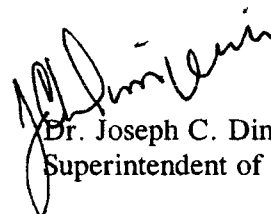
The West Mifflin Area School District supports the amendment revisions to Chapter 14 which includes elimination of existing class size and other burdensome restrictions. We believe the revisions to Chapter 14 provides flexibility for schools to best implement the rules for special education. Special education teachers have burdensome requirements and paperwork that are mandated under the existing regulations, and the revised proposal will help alleviate these staffing problems. The revised amendments to Chapter 14 also contain various protections and safeguards for children to receive necessary services. Pennsylvania class size restrictions are not required under federal law, and most states follow the federal class size mandate. The maximum caseload limitations under amendments to Chapter 14 effectively control class sizes while giving schools flexibility in their staffing needs and individual situations. The West Mifflin Area School District will maintain responsible class sizes to ensure that the rights and privileges of special needs students are not compromised.

We urge you to support the amendment to Chapter 14.

Very truly yours,



Mr. Michael J. Olack
School Board President



Dr. Joseph C. Dimperio
Superintendent of Schools



RECEIVED
2001 MAR 30 AM 8:54
REVIEW COMMISSION



PENNSYLVANIA FEDERATION OF TEACHERS, AFT, AFL-CIO

10 SOUTH NINETEENTH STREET AT THE RIVER • PITTSBURGH, PA 15203-1842 • Phone (412) 431-5900 • Fax (412) 390-2491

Albert Fondy, President

Ted Kirsch, Executive Vice President

March 20, 2001

Honorable Jess Stairs
Chairman, House Education Committee
House Post Office, Main Capitol Building
Harrisburg, PA 17120

Dear Representative Stairs:

I am writing, first of all, to express my appreciation for your numerous actions over many years which have benefited children in public schools. You have been, and are, a true friend of public education and school children.

I am also writing about the proposed new Chapter 14 and the issue of Special Education class size limits. I know that you have been supportive of the State Board of Education and its proposed withdrawal of Special Education class size limits under the new Chapter 14. I can only tell you what Special Education teachers tell us. "It will be impossible to accomplish for disabled youngsters all that needs to be accomplished if such students, who need concentrated, individual attention, are in large classes of their peers."

I understand that the State Board now is arguing that Special Education class size can be controlled by each individual student's IEP. To begin with, that's fundamentally not workable. Even if it were, it will never happen. Very few parents of the over 200,000 Special Education students in Pennsylvania will be sophisticated enough to know to demand small classes. Even if they do, the school district representative in an IEP meeting can simply override them. Reasonable size classes must already be in place and must be enforced by state regulations.

The contention that full-time classes will not be affected because of existing Special Education caseload limits, which have been retained by the State Board, is also fallacious. In the proposed Chapter 14, right after the caseloads heading, the State Board makes caseload waivers available, so the Board is being somewhat disingenuous about maintaining caseloads.

-page 1 of 2-

RECEIVED
2001 MAR 22 AM 9:11
HOUSE OF REPRESENTATIVES
EDUCATION COMMITTEE

I hope you can accommodate the genuine concerns expressed in this letter. Both the PSEA and the PaFT are deeply disturbed about this potential, huge backward step for Special Education children and Special Education teaching in our state. Removing Special Education class size limits will clearly impair teachers; far more than that, it will reduce greatly what can be accomplished by disabled children in our schools.

Thank you for your consideration in this vital matter.

Sincerely,

A handwritten signature in cursive script that reads "Albert Fondy".

Albert Fondy, President
Pennsylvania Federation of Teachers
and Pittsburgh Federation of Teachers

AF:jfopeiu457afl-cio

cc: Ted Kirsch, PaFT
Jerry Jordan, PaFT
Jack Steinberg, PaFT
Linda Harris, PaFT
John Tarka, PaFT
Paul Francis, PaFT and PFT

Patsy Tallarico, PSEA
Carolyn Dumaresq, PSEA
Liz Stanley Swope, PSEA
Robert Nyce, IRR

Original: 2144



**SCHUYLKILL VALLEY SCHOOL DISTRICT
ADMINISTRATION CENTER
929 LAKESHORE DRIVE
LEESPORT, PENNSYLVANIA 19533-8631**

**OFFICE OF THE SUPERINTENDENT
(610) 916-0957
FAX (610) 926-3960**



March 19, 2001

Mr. Robert Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor
Harristown 2
333 Market Street
Harrisburg, PA 17101

RECEIVED
2001 MAR 22 AM 9:14
INDEPENDENT REGULATORY
REVIEW COMMISSION

Dear Mr. Nyce:

This communication is in support of the proposed revisions to Chapter 14 regulations for special education. The revisions as presently proposed by the State Board of Education will eliminate restrictions for class sizes while continuing to maintain a restriction on the number of students that a teacher may carry on their teaching load. The revisions as provided allow for local district decision making in the construction of special education classes while continuing to assure that instruction will be carried out in a small group environment which promotes individualized instruction for students.

I urge the Independent Regulatory Review Commission to consider these proposed revisions favorably.

Sincerely yours,

Solomon Lausch, Ph.D.
Superintendent

SL:smd

cc: Board of School Directors

**Pottstown Memorial
Medical Center***Health Care You Can Believe In.*1600 East High Street
Pottstown, Pennsylvania 19464-5093
610-327-7000

Original: 2144

March 19, 2001

John R. McGinley, Jr., Chairman
Independent Regulatory Review Commission
14th Floor,
Harrisburg 2,
333 Market Street
Harrisburg, Pa., 17101

Dear Mr. McGinley:

I am appealing to you to adopt the final regulations of Act 68 to enable hospitals and health care systems and health plans to have standardized regulations and accountability. It would establish fair and responsible utilization review standards that hold licensed insurer and managed care plans accountable for utilization review decisions and ensure providers may advocate for patients with their consent at the time of treatment.

Without your assistance, all hospitals, including my own, Pottstown Memorial Medical Center, will continue to lose a great deal of money which is very important to utilize to care for our nation's people and to maintain the rapidly changing medical technology.

Thank you, for your assistance,

*Sandra L. Wersler, CPUR*Sandra Wersler,
Manager,
Utilization Management
Pottstown Memorial Medical Center
1600 E. High St.
Pottstown, Pa., 19464RECEIVED
2001 MAR 19 AM 10:07
INDEPENDENT REGULATORY
REVIEW COMMISSION

Original: 2144

IRRC

From: Schuylkill Valley SD [sderck@berksiu.k12.pa.us]
Sent: Monday, March 19, 2001 2:07 PM
To: IRRC@irrc.state.pa.us
Subject: Proposed Revisions to Chapter 14 Regulations

Dear Mr. Nyce:

This communication is in support of the proposed revisions to Chapter 14 regulations for special education. The revisions as presently proposed by the State Board of Education will eliminate restrictions for class sizes while continuing to maintain a restriction on the number of students that a teacher may carry on their teaching load. The revisions as provided allow for local district decision making in the construction of special education classes while continuing to assure that instruction will be carried out in a small group environment which promotes individual instruction for students.

I urge the Independent Regulatory Review Commission to consider these proposed revisions favorably.

Solomon Lausch, Ph.D.
Superintendent
Schuylkill Valley School District
929 Lakeshore Drive
Leesport, PA 19533-8631
(610) 916-0957
(610) 926-3960 (fax)

slausch@berksiu.k12.pa.us

3/19/2001

IRRC

From: jzahorchak@trojan.gjsd.k12.pa.us
Sent: Sunday, March 18, 2001 10:47 AM
To: IRRC@irrc.state.pa.us
Subject: Chapter 14 support

Dear Members of the IRRC:

I am the superintendent of the Greater Johnstown School District, Johnstown, PA. I write in support of the State Board of Education's revisions to Chapter 14 regulations. The revised Chapter 14 provides much needed flexibility for our schools to best implement IDEA. I do not believe that PA should add rules to the federal laws, especially when those additions add undue burdens to local districts.

Please know that we will work hard and well to provide much needed services to children with special needs. Moreover, we will remain responsible to ensure that the rights of these children are not compromised.

Please support the revisions.

Thank you.

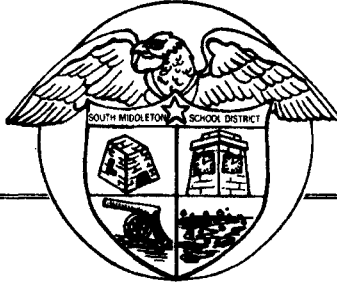
Sincerely,

Gerald L. Zahorchak, D.Ed.
Superintendent
Greater Johnstown School District
1091 Broad Street
Johnstown, PA 15906

814-533-5687
Fax: 814.533.5662
jzahorchak@trojan.gjsd.k12.pa.us

G. Zahorchak

Original: 2144



SOUTH MIDDLETON
4 Forge Road

SCHOOL DISTRICT
Boiling Springs, PA 17007

Special Education Office
805 Holly Pike
Mt. Holly Springs, PA 17065

Telephone: 717-486-0034
Facsimile: 717-486-3654
Email: bja@mail.bubblers.k12.pa.us

The Honorable James J. Rhoades
Senate Box 203029
Harrisburg, PA 17120-3029

The Honorable Jeffrey E. Piccola
Senate Box 203015
Harrisburg, PA 17120-3015

The Honorable Ronald S. Marsico
South Office Building
Room 410
Harrisburg, PA 17120-2020

The Honorable Jess Stairs
East Wing Room 43A
Harrisburg, PA 17120-2020

RECEIVED
2001 MAR 16 AM 9:03
REVIEW COMMUNICATIONS
OFFICE

Dear Sirs:

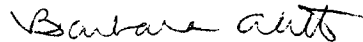
I am writing to express my concern and dismay at the action taken by the Independent Regulatory Review Commission (IRRC) on March 8, 2001. The IRRC's disapproval of the revisions to Pennsylvania's special education regulations and standards (22 Pa. Code Chapters 14 and 342) is unacceptable.

I have been a strong supporter of the State Board's intent to adopt the federal regulations for special education (IDEA) and adding minimum Pennsylvania-specific regulations by reference. The version of Chapter 14 disapproved by the IRRC would have significantly reduced the regulatory burden and the associated costs of meeting such regulations, all without, in my professional opinion as a special education administrator, adverse results for children. Simply put, limiting the regulatory burden on public educational agencies will allow those agencies to focus their resources on providing quality special education services. The federal special education regulations, which the State Board sought to adopt by reference, contain more than enough procedural protections for each individual child with a disability. Just the due process procedures alone protects a child's individual right to a free appropriate public education in the least restrictive environment.

Special education in the state of Pennsylvania needs to be changed to reflect the federal law regarding special education. The stress of meeting the complex needs of children with disabilities and adhering to burdensome regulations have combined to leave us with a critical shortage of teachers and administrators willing to work in the field. As a special education administrator, I can tell you with confidence that we cannot find qualified special education teachers. Ten years ago it was typical to have 10 -15 applicants for a vacancy, now I consider myself fortunate to have a certified candidate for a special education vacancy. I attribute that, in part, to the stress of the job previously mentioned. Excellent teachers leave the field and cite the primary reason for leaving as excessive paper work that interferes with valuable instructional time for children.

The field of special education is over-regulated. Reevaluation is not necessary as a routine matter every two years. The current class size mandates are restrictive. The maximum number of students instructed is dependent on the needs of the students and should not be based on numbers only. This should be a local decision and not mandated by state regulations. I am very discouraged at the IRRC's decision and respectfully request that you over-ride the IRRC's disapproval of the amendments to Chapters 14 and elimination of Chapter 342. It is the right thing to do for children, for parents, for educators, and for taxpayers. If you have any questions, please do not hesitate to contact me at home (717-790-9093) or at work (717-486-0034). Thank you in advance for your consideration.

Sincerely,



Barbara Alitto
South Middleton School District
Supervisor of Special Education

cc: Governor Tom Ridge
Dr. Peter H. Garland, Executive Director, State Board of Education
Independent Regulatory Review Commission
Eugene W. Hickok, Secretary of Education
Fran J. Warkomski, Director of Special Education, Pennsylvania Dept. of Education
Patricia B. Sanker, Superintendent, South Middleton School District

Original: 2144

RECEIVED

2001 MAR 22 AM 9:14

March 18, 2001

EDUCATION
REVIEW COMMISSION



Mr. Robert E. Nyce, Executive Director
IRRC
333 Market St.
14th Floor
Harrisburg, PA 17101

Dear Mr. Nyce,

I am writing to you in reference to Chapter 14. I am a special education teacher who is most interested in providing the best education to my students. I believe that lifting the maximum class size allows for educational institutions to watch for dollar signs rather than meet the needs of the children. Children are all ready having a difficult time learning, how can adding more students be in their best interest?

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Veronica Herzog', written in dark ink.

Veronica Herzog
603 Crescent Drive
Glenolden, PA 19036

Original: 2144

Stephanie Tecza
3441 Bethoven Street
Pittsburgh, PA 15219
(412) 683-2830

RECEIVED

2001 MAR 16 AM 9:01

INDEPENDENT REGULATORY
REVIEW COMMISSION



Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17126

Dear Commission:

I want to extend my sincere thanks and gratitude for your affirmation of what is, "In the best interest of the public". Thank you for the opportunity to present my testimony on behalf of parents across Pennsylvania.

Before I had gotten home to Pittsburgh the phone lines were hot with the news of the disapproval by IRRC to the Department of Education regarding Chapter 14.

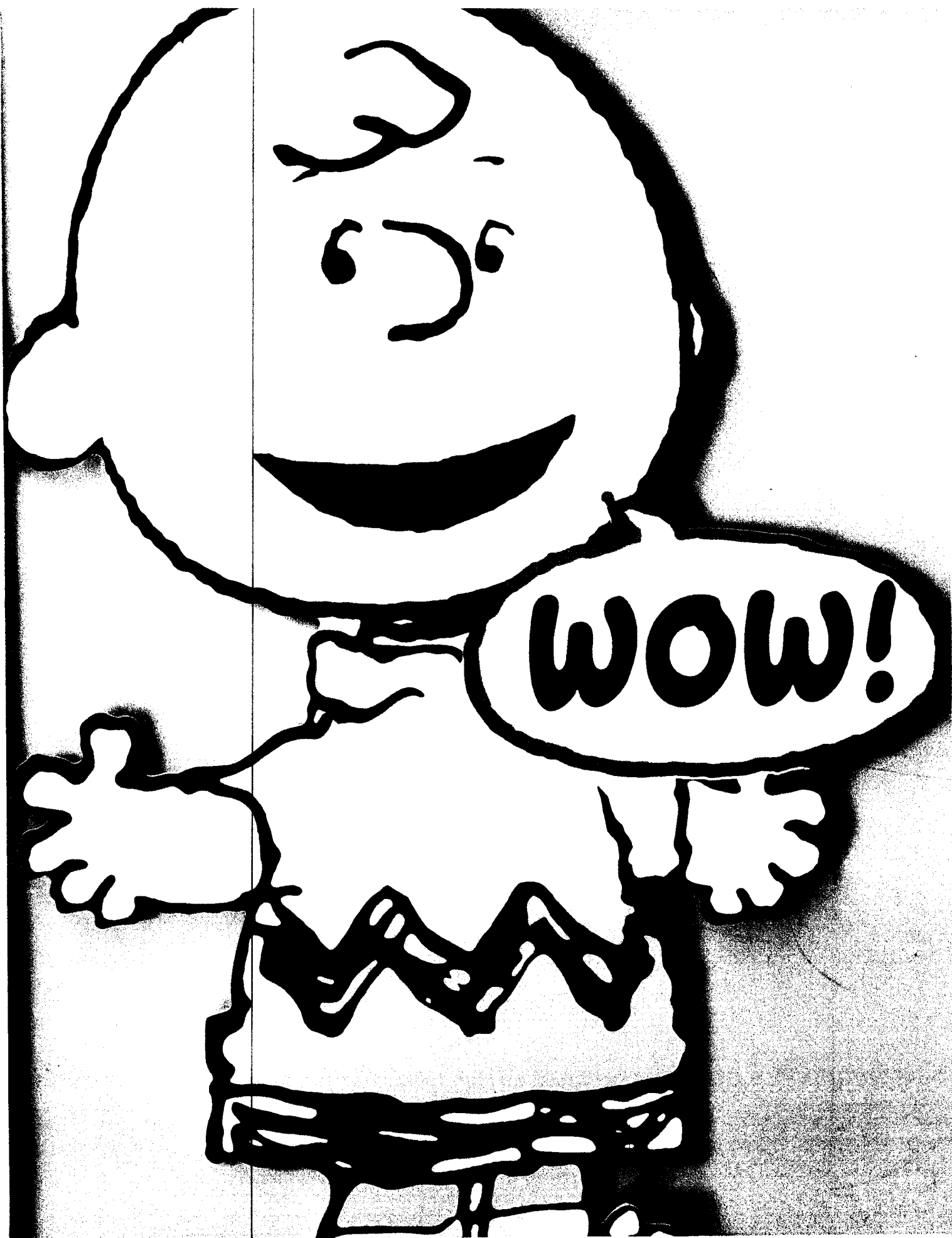
I received many phone calls that evening from parents excited about the defeat. I explained IRRC's position regarding public interest, and how I was extremely impressed with your dedication. Parents are use to being lied to, not being heard and feeling hopeless. This was a wonderful change. To really be heard!!

School districts across Pennsylvania are under great scrutiny from local taxpayers regarding the state of special education funding. It appears that the department is cutting services as suppose to servicing what students need.

Not to long ago the Pennsylvania Special Education Department was audited by the Federal government and found out of compliance around a number of issues. To make our special education system comply, the department appears to be minimizing what needs to be in compliance. Less laws = less compliance. The Pennsylvania Department of Education and the 501 school districts need to be held accountable!

Thank you again for your time,


Stephanie and Leah Tecza



To the Commission!

I'M IMPRESSED!

Thank you for
your strong stand on
"Best Interest of the Public".
Parents really appreciated
your careful consideration
and comments on Chapter 4.

Stephanie &
Leah
Teezen

IRRC

From: Mary Ellen Sabatino [msabatin@blfsd.org]
Sent: Friday, March 16, 2001 3:52 PM
To: IRRC@irrc.state.pa.us
Subject: Chapter 14

Good afternoon:

I would like to encourage the House and Senate committees as well as IRRC to approve the revised form of Chapter 14 to approve as quickly as possible. While no document can be perfect, this revised, modified proposal will be helpful to those of us in administrative positions as well as beneficial to the special needs children of Pennsylvania. As is true with any proposed change, we can continue to look for the perfect piece of legislation, but overall this document will bring PA closer to the federal mandates of IDEA and provide continuity in practices related to the state and federal laws. I commend the State Board of Education for their efforts and extensive study of this proposal and suggest we move forward with approval.

Thank you for your consideration of my input in this matter.

Mary Ellen Sabatino, D.Ed.
Director of Special Education/Special Services
Bellefonte Area School District
Bellefonte, Pennsylvania

Original; 2144

Millersburg Area School District

Terry L. Burrows, President
Bruce R. Baker, Vice President
Brian S. Baker
Alan W. Dakey
Thomas A. Fasnacht
Margaret A. Lebo
Karen F. Lunt
Mark D. Rothermel
Samuel A. Sassani
Allen Shaffer, Solicitor
Cathy S. Artz, Treasurer
Michael J. Haley, Secretary



JOHN L. FRONK, Superintendent
S. KIRK MILLER, High School Principal
JEFFREY L. PROUSE, Middle School Principal
JOHN C. WELKER, Elementary School Principal

William D. Dreibelbis, Guidance Counselor
Denise A. Klinger, Guidance Counselor
Kimberly W. Stroman, Guidance Counselor

799 CENTER STREET
MILLERSBURG, PENNSYLVANIA 17061-1420
TELEPHONE (717) 692-2108
FAX (717) 692-2895

March 16, 2001

Robert Nyce, Executive Director
IRRC
14th Floor, Harrisstown 2
333 Market Street
Harrisburg, PA 17101

Dear Mr. Nyce:

I am writing to encourage your support of the State Board's revisions to Pennsylvania's special education regulations and standards. The Senate and House Education Committees, as part of the regulatory review process, will be considering the State Board's revisions of Pa. Code Chapter 14 and accompanying deletion of Chapter 342.

Chapter 14 provides needed flexibility for schools to best implement the rules for special education. It is an opportunity for state government to provide relief from state mandates that exceed federal requirements.

Chapter 14 contains various protections and safeguards for children to receive necessary services. Combined with requirements under federal law and regulation, as well as state and federal court decisions, this proposal gives students a fair and well-balanced system for the delivery of services. As a whole, Pennsylvania will still require more than what is federally mandated.

Class size restrictions are not federally mandated; most states do not have a class size mandate. It is inaccurate and inappropriate to assume that the elimination of the class size table will mean that school entities will suddenly move to overcrowd their classes. Many entities currently self-impose class size limitations below the maximums allowed based on their situations and individual students involved. Chapter 14 contains monitoring provisions, as well as procedures, for schools to be accountable to the Department of Education, as well as parents and others, for their scheduling plans. The maximum caseload limitations under Chapter 14 effectively control class sizes while giving school flexibility in their staffing needs and individual situations. Imposing rigid class size limits would mean that a school would have to hire additional staff if the number of students in a special education class exceeded the number by even just one student. School entities presently have trouble attracting and retaining special education teachers because of burdensome requirements and paperwork that are required under the existing regulations. The revised proposal will help alleviate these staffing problems. Please be assured that our district will maintain a responsible class size so that the needs of our students will be met.

The State Board and the Pennsylvania Department of Education have worked long and hard to pursue the best course of action in this matter. I realize that advocate organizations will continue to oppose the revisions to Chapter 14 because they feel that the changes will limit children's and parents' rights. However, we need to be realistic as to the limitations of staff and resources that can be devoted to special education. I consider myself an advocate for

The Millersburg Area School District is an Equal Opportunity Employer.

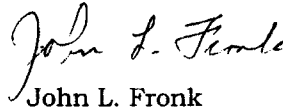
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2001 MAR 21 AM 9:21
REVIEW COMMISSION

Robert Nyce
March 16, 2001
Page Two

children, yet I am in complete agreement with the State Board's intent to craft a minimal set of regulations by adopting the Federal regulations by reference and adding minimum Pennsylvania-specific regulations. The State Board's approval is good for children with disabilities because it will limit the regulatory burden on public education agencies, thereby allowing those agencies to focus their finite resources on providing quality special education services.

I am asking you to support the State Board's recommended revisions to Pennsylvania's special education regulations and standards as approved at their January 2001 meeting. If you have any questions, please do not hesitate to contact me at 717-692-2108. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in cursive script, reading "John L. Fronk".

John L. Fronk
Superintendent

JLF/th

CC: Terry Burrows, President, Board of Education
Sheree-Lee Knorr, Special Education Supervisor

Original: 2144

IRRC

From: Kim Rhodes [kstr57@hotmail.com]
Sent: Friday, March 16, 2001 3:06 PM
To: IRRC@irrc.state.pa.us
Subject: responding to chapter 14

Mr. Robert E. Nyce, I had received an e-mail from Gail Walker (mentor parent program) in reference to the rejected proposal change to Chapter 14. I am so pleased it wasn't passed. I am a parent of three boys one with special needs, and I have advocated forever for him, and have since become a parent consultant with the program, and have found it to be very rewarding. This is certainly a step forward with the educational changes we need to make. And I most certainly commend the parents who where there and spoke up, I wish I also had the oppertunity to be there for support on this issue. As a parent, and a consultant, if there is anything I can do, please do not hesitate to contact me for any kind of support. sincerely,

Kim T. Rhodes
R.D.2 Box 36 Mayport,

Pa. 16240 kstr57@hotmail.com

Get your FREE download of MSN Explorer at <http://explorer.msn.com>

Original: 2144

IRRC

From: Donna Kalovcak [dkalovcak@pottsville.k12.pa.us]
Sent: Friday, March 16, 2001 12:50 PM
To: IRRC@irrc.state.pa.us
Subject: Chapter 14 Regulations
Importance: High

Attention: Executive Director, Robert Nyce

Please see the following attachment from Pottsville Area School District

3/19/2001

The Pottsville Area School District strongly recommends that the Independent Regulatory Review Commission support the State Board of Education revisions to Chapter 14 for the following reasons:

- Chapter 14 contains various protections and safeguards for children to receive necessary services. Combined with requirements under federal law and regulation as well as state and federal court decisions, the proposal gives students a fair and well-balanced system for the delivery of services. As a whole, Pennsylvania still will require more than what is federally mandated.
- Class size restrictions are not federally required; most states do not have a class size mandate.
- It is inaccurate and inappropriate to assume that the elimination of the class size table will mean that school entities will suddenly move to overcrowd their classes. Many entities currently self-impose class size limitations below the maximums allowed, based on their situations and individual students involved. Chapter 14 contains monitoring provisions and procedures for schools to be accountable to the Department of Education as well as parents and others for their scheduling plans.

Original: 2144

IRRC

From: mjamer [mjamer@adelphia.net]
Sent: Friday, March 16, 2001 10:46 PM
To: IRRC@irrc.state.pa.us
Subject: Chapter 14 Reject
Importance: High

Dear IRRC Members, On behalf of my NON-VERBAL four year old Autistic son I am asking you to reject Chapter 14 for faliure to have any class size control. Passing Chapter 14 will give my son no hope for being successful in his education. Ryan will get lost, again, in a system who feels, already, that if we ignore then they will go away. My husband & I have hopes and dreams for Ryan and if this passes then what chance does Ryan have? Ryan needs your support... Please give him a voice!!!! Thank you for your time in this matter.
Sincerely, Christine, Michael, Ashley, Brooke and our son RYAN PATRICK JAMEISON 342 Stanley Avenue
Havertown, PA 19083

3/19/2001



EAST ALLEGHENY SCHOOL DISTRICT

Dr. Thomas A. Knight
E-Mail: tknight@eawildcats.net
Tele: (412) 824-8012 Ext. 151

Superintendent of Schools

Fax: (412)824-1062

March 16, 2001

Mr. Robert Nyce, Executive Director
Independent Regulatory Review Commission
14th Floor, Harrisstown 2
333 Market Street
Harrisburg, PA 17101

RECEIVED
2001 MAR 23 AM 9:19
INDEPENDENT REGULATORY
REVIEW COMMISSION

Dear Mr. Nyce:

As Superintendent of Schools for the East Allegheny School District I urge the IRRC to support Chapter 14 as proposed by the State Board of Education for the specific reasons listed below:

- It will provide needed flexibility for schools to best implement the rules for special education.
- It will alleviate the staffing problems created by burdensome requirements and paperwork.
- It will provide various protections and safeguards for children to receive necessary services.
- It will eliminate class size restrictions and will provide caseload limitations that will control class size while giving schools flexibility for staffing needs and individual situations.

If Chapter 14 is retained without revision, East Allegheny School District will maintain responsible class sizes to ensure that the rights and privileges of special needs students are not compromised.

Respectfully,

Thomas A. Knight
Superintendent

TAK:mg

Original: 2144



DERRY AREA SCHOOL DISTRICT

982 North Chestnut Street Ext.

Derry PA 15627-7600



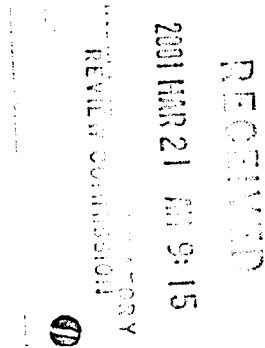
Joseph A. Koluder, Jr.
Assistant for Business Affairs
Telephone: 724-694-1402
David P. McNichol
Director of Transportation,
Athletics and Special Funds
Telephone: 724-694-1406
724-694-1419 (Athletics)
Dennis L. Coppola
Psychologist/ Director of Special Services
Telephone: 724-694-1408

Joseph A. Bellissimo
Superintendent
Telephone: 724-694-8383
FAX: 724-694-1429
Roberta J. Kuhns
Assistant Superintendent
Telephone: 724-694-1405

Rick Naeger
Supervisor of Buildings and Grounds
Telephone: 724-694-1415
Gwen Kozar
Food Service Director
Telephone: 724-694-2422
Barbara Visconti
Fiscal Manager/Board Secretary
Telephone: 724-694-1402

March 16, 2001

Robert Nyce
Executive Director, IRRC
14th Floor
333 Market Street
Harrisburg PA 17101



Dear Dr. Nyce:

It saddened me when I heard that the IRRC voted to disapprove the State Board of Education's Chapter 14 proposal. Chapter 14 provided the needed flexibility for schools to best implement rules for special education.

We are one of the four poorest school districts in Westmoreland County. While we have an excellent educational program, including special education, Chapter 14 provided some relief from mandates that exceed federal requirements.

It is quite clear that school districts are have trouble attracting and retaining administrators and special education personnel because of the burdensome requirements and paperwork that are mandated under the existing regulations. I ask you, how can we continue to lose quality people and continue to maintain quality programs?

Hopefully, the IRRC will consider the Chapter 14 revisions that will be sent for your consideration. I believe these revisions will keep the integrity of special education in place as well as provide procedures for schools to be accountable to the Department Education as well as parents of children in need. Please help us!

Sincerely,

Joseph A. Bellissimo
Superintendent

JAB/jb

Original: 2144

IRRC

From: Nancy J. Thole [nthole@epix.net]
Sent: Thursday, March 15, 2001 12:41 PM
To: IRRC@irrc.state.pa.us
Subject: Chapter 14 Regulations

IRRC:

Please share this with all the IRRC members. Having just received the news regarding the Chapter 14 Special Education Regulations being rejected by you and returned to the State Board for further work, I want to thank you on my behalf and all the others who will benefit from this action.

It has been a long, hard struggle by parents of special needs students, and others, to obtain the help we needed in getting appropriate, helpful special education regulations.

It is very, very rewarding to know that you took the time, that you cared and that you did the right thing on behalf of our children.

THANK YOU!

Nancy Thole,
Mother of a student with neurological impairments

Mountain Top PA
nthole@epix.net

RECEIVED
2001 MAR 15 PM 2:41
REVIEW COMMISSION
41

Original: 2144

IRRC

From: sara cohen [pastmidvale@hotmail.com]
Sent: Friday, March 16, 2001 12:17 PM
To: irrc@irrc.state.pa.us
Subject: Chapter 14 and class size limits

Thank you for standing together for my child and children like him who have IEP's and require class size limits in order to learn.

My son is a 15 year old boy with Down Syndrome and Autistic Spectrum Disorder. Elie is unable to learn or participate in class rooms with large numbers of people because of his disability. He learns best in small, quiet spaces where there is attention to each person. Without the class size limits he spends his day trying to avoid the noise and confusion that large groups of people engender. Then he becomes aggressive because the situation is so unstable.

Because the Intermediate Unit in our school district was unable to provide such an environment - his class there consisted of 30 students- he is now attending an Approved Private School paid for by our district and the state. Here he is learning how to care for himself and how to work. He has had no aggressive incidents since his transfer.

Without the changes requested to allow the Intermediate Units and the school districts to determine class size, our school district and intermediate Unit treated the regulations as suggestions. If they are unable to follow the regulations now, removing class size limits means that more children like my son will not learn but be simply warehoused, thus becoming a bigger burden to the state and the family unit.

Thank you for speaking up for my child.

Sara Cohen
1336 Olive Street
Coatesville, Pa 19320
610-466-7793

Get your FREE download of MSN Explorer at <http://explorer.msn.com>

Original: 2144



Minersville Area School District

M. Joseph Brady, Superintendent - (570) 544-4764 • Fax - (570) 544-6162
Andrew M. Terry, High School Principal - (570) 544-4761 • Fax - (570) 544-5866
Judith A. McGrory, Elementary Principal - (570) 544-2077 • Fax - (570) 544-1404

March 14, 2001

The Honorable James J. Rhoades
Chairman, Senate Education Committee
Senate Box 203029
Harrisburg, PA 17126-3029
Fax: 717-783-9149

The Honorable Jess M. Stairs
Majority Chairman, House Education Committee
East Wing Room 43A
Harrisburg, PA 17120-2020
Fax: 717-787-0859

The Honorable Nicholas A. Colafella
Democratic Chairman, House Education Committee
Room 300
Main Capitol Building
Harrisburg, PA 17120-2020
Fax: 717-787-5066

The Honorable Allyson Y. Schwartz
Minority Chairperson, Senate Education Committee
Senate Box 203004
Harrisburg, PA 17120-3004
Fax: 717-772-0572

Dear Sirs and Madam

I am writing to express my concern with the Independent Regulatory Review Commission's (IRRC) disapproval of the revisions to Pennsylvania Special Education Regulations and Standards (22 Pa. Code -Chapters 14 and 342). As a public school official and educational advocate for children with disabilities in Pennsylvania, I must express my grave concerns regarding this action by the IRRC. School districts and Intermediate Units continue to be faced with serving children who have increasingly comprehensive as well as complex educational needs.

The burden of federal special education regulatory requirements has consistently increased since 1975. Unfortunately, funding for those requirements has and continues

P.O. BOX 787, MINERSVILLE, PA 17954
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2001 MAR 21 AM 8:50
INDEPENDENT REGULATORY
REVIEW COMMISSION

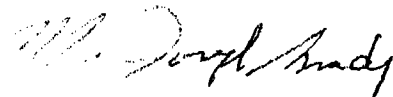
Minersville Area School District

Senate/House Representative
Page Two
March 14, 2001

to be, at best, inadequate. This combination of extensive regulatory requirements and inadequate funding has, in my opinion, contributed to the deterioration of a once proud and respected educational system for students with disabilities in the Commonwealth of Pennsylvania. I would strongly encourage you to support the version of Chapter 14 that was recently disapproved by the IRRC. These proposed versions reflect the federal regulations with selected Pennsylvania specific regulations. I believe that this version of Chapter 14 would provide a comprehensive and effective means of meeting the needs of students with disabilities in the Commonwealth of Pennsylvania.

To our dismay, we learned that there may be the impression that educators are not committed to the proposed version of Chapter 14. Please know that during the past two years, complete and accurate testimony was provided by educators. That guidance was heard and applied as the proposed version of Chapter 14 was being developed. I remain committed to Chapter 14 as proposed and ask that you also support this critical and appropriate regulation.

Sincerely yours



M. Joseph Brady, Superintendent
MINERSVILLE AREA SCHOOL DISTRICT

MJB/lap

cc: Eugene W. Hickok, Secretary of Education
Dr. Peter H. Garland, State Board of Education
Dr. Fran J. Warkowski, State Director of Special Education
John R. McGinley, Jr., Independent Regulatory Review Commission

Original: 2144

RECEIVED
2001 MAR 16 AM 9:02
REVIEW COMMISSION



727 N. Irving Avenue
Scranton, Pa. 18510
March 14, 2001

Mr. Robert E. Nyce
Executive Director
IRRC
Pennsylvania Department of Education
333 Market Street
Harrisburg, Pa. 17105

Re: Chapter 14

Dear Mr. Nyce:

I am writing to thank you and your fellow Commissioners on the IRRC for rejecting the proposed changes to Chapter 14. My heartfelt thanks and appreciation goes out to all of you. You have protected the rights of special education children throughout Pennsylvania.

Respectfully yours,


Frank Koczwar

Original; 2144

IRRC

From: john2468 [john2468@email.msn.com]
Sent: Tuesday, March 13, 2001 12:57 PM
To: IRRC@irc.state.pa.us
Subject: thanks

Delighted that you voted in a way that supports our children and grandchildren.
Ruth McGuire

RECEIVED
2001 MAR 15 AM 8:57
FOR Y
REVIEW COMMISSION

Pottsville Area School District

Howard S. Fernsler Academic Center

Original: 2144

RECEIVED
2001 APR -3 1501 WEST LAUREL BOULEVARD
POTTSVILLE, PA 17901

REVIEW COMMISSION



March 29, 2001

John R. McGinley, Jr.
Chairman
Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17101

EMBARGOED MATERIAL

Dear Mr. McGinley and Commission Members:

The purpose of this correspondence is to request that the Independent Regulatory Review Commission approve Chapter 14 as submitted by the State Board of Education. This proposed regulation has been discussed, debated and scrutinized for quite some time. The final form provides to Pennsylvania's children with disabilities the full range of protections offered through federal law. In addition, Chapter 14 also puts forth services and structure unique to our Commonwealth. This is a sound regulation that mandates that educators meet, without compromise, the needs of our special education population.

As a school superintendent, I am most concerned about having reasonable flexibility in establishing appropriate class sizes for special education students. When the Commission disapproved the proposed regulation on March 8th, you did so because you were not persuaded that exceptional children would receive the necessary staff attention to achieve IEP goals if class size limits were not in place. I want to take this opportunity to offer you realistic rationale for not mandating class size limits.

Quite often, school administrators find themselves forced into making program decisions based on the current class size restrictions. For example, consider a hypothetical situation where a student named Randy, who is in need of learning support, moves from another Pennsylvania district into my school district. In reviewing Randy's IEP, we learn that he is in seventh grade and receives his math, science and English programs in a learning support classroom. The district and parents agree that Randy's IEP is appropriate; however, as we prepare to implement Randy's program, we realize that an obstacle exists. There is only one age appropriate learning support class in the building and the teacher informs us that eight students (the maximum currently allowed) are already enrolled in the math and English classes.

WE ARE AN EQUAL RIGHTS AND OPPORTUNITY SCHOOL DISTRICT

At this point, our choices are limited. Even though Randy would benefit by attending his new neighborhood school, due to this artificially established limit of eight students per class, our only choice may be to bus him 25 minutes to a neighboring district. Sure, there are other options. We could hire a special education teacher on an hourly basis and provide Randy with one-to-one instruction during those periods if, (and mind you, it is a big if), if we could locate and employ a special education teacher on an hourly basis which is rather unrealistic. We could also start a second learning support class in the building, but again, we are faced with issues such as finding a qualified teacher and attempting to locate appropriate space in a building that is already at maximum usage.

Mandating strict class size limits is just not fair to students. We take away options not only when students move into our district but also when students struggle in regular education and could benefit from a special education class only to find a sign that says "no vacancy". On behalf of myself and the other superintendents in Schuylkill County, I strongly urge you to consider the necessity of not mandating maximum class size limits. Our experience tells us that such limits have functionally closed the doors on appropriate special education options for many students.

Thank you for providing me the time to address the issue of why class size limits actually serve to limit educational opportunities.

Sincerely,



James T. Gallagher, Ed.D.
Superintendent
Pottsville Area School District

JTG:dk

cc: Honorable James J. Rhoades
Honorable Jess M. Stairs
Honorable Nicholas A. Colafella
Honorable Allyson Y. Schwartz
Dr. Peter H. Garland, State Board of Education

POTTSVILLE AREA
SCHOOL DISTRICT

1501 W. Laurel Blvd., Pottsville, PA 17901

FAX

Date: 4/02/01

Number of pages including cover sheet: 2

To: Mr. John McGinley, Jr.,
Chairman - IRRC

Phone:

Fax phone: (717)783-2664

CC:

From:

Dr. James T. Gallagher,
Superintendent

Phone: (570) 621-2908

Fax phone: (570) 621-2025

REMARKS:

☒ Urgent

☒ For your review

☐ Reply ASAP

☐ Please comment

RECEIVED

2001 APR -3 11:13:30

RECEIVED

Original: 2144

SCHUYLKILL HAVEN AREA SCHOOL DISTRICT

120 HAVEN STREET

SCHUYLKILL HAVEN, PENNSYLVANIA 17972

*

Scott R. Jacoby, *Pres.*
Samuel E. DeWald, *V. Pres.*
John B. Hale, *Sec.*
William M. Shay, *Asst. Sec.*
Michele D. Boyer, *Treas.*

RICHARD J. RADA
Superintendent of Schools
TELEPHONE 570-385-6705
FAX 570-385-6736

Thomas Gordon
George E. Kulp
Richard Croneberger
M. Elaine Miller
Dr. Bernice A. Machamer

March 13, 2001

The Honorable James J. Rhoades
Chairman, Senate Education Committee
Senate Box 203029
Harrisburg, PA 17126-3029

The Honorable Jess M. Stairs
Majority Chairman, House Education Committee
East Wing Room 43A
Harrisburg, PA 17120-2020

The Honorable Nicholas A. Colafella
Democratic Chairman, House Education Committee
Room 300
Main Capitol Building
Harrisburg, PA 17120-2020

The Honorable Allyson Y. Schwartz
Minority Chairperson, Senate Education Committee
Senate Box 203004
Harrisburg, PA 17120-3004

Dear Sirs and Madam:

I am writing to express my concern with the independent Regulatory Review Commission's (IRRC) disapproval of the revisions to Pennsylvania Special Education Regulations and Standards (22 Pa. Code- Chapters 14 and 342). As a public school official and educational advocate for children with disabilities in Pennsylvania, I must express my grave concerns regarding this action by the IRRC. School districts and Intermediate Units continue to be faced with serving children who have increasingly comprehensive as well as complex educational needs.

The burden of federal special education regulatory requirements has consistently increased since 1975. Unfortunately, funding for those requirements has and continues to be, at best, inadequate. This combination of extensive regulatory requirements and inadequate funding has, in my opinion, contributed to the deterioration of a once proud and respected educational system for students with disabilities in the Commonwealth of Pennsylvania. I would strongly encourage you to support the version of Chapter 14 that was recently disapproved by the IRRC. This proposed version reflects the federal regulations with selected Pennsylvania specific regulations. I believe that this version of Chapter 14 would provide a comprehensive and effective means of meeting the needs of students with disabilities in the Commonwealth of Pennsylvania.

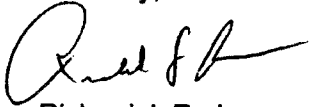
We are an equal rights and opportunity school district.

"QUALITY ENDURES"

RECEIVED
2001 MAR 16 AM 9:05
SENATE EDUCATION COMMITTEE
10

To our dismay, we learned that there may be the impression that educators are not committed to the proposed version of Chapter 14. Please know that during the past two years, complete and accurate testimony was provided by educators. That guidance was heard and applied as the proposed version of Chapter 14 was being developed. I remain committed to Chapter 14 as proposed and ask that you also support this critical and appropriate regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard J. Rada", written in a cursive style.

Richard J. Rada
Superintendent of Schools

RJR/nm

C: Eugene W. Hickok, Secretary of Education
Dr. Peter H. Garland, State Board of Education
Dr. Fran J. Warkomski, State Director of Special Education
John R. McGinley, Jr., Independent Regulatory Review Commission ✓

Original: 2144



1188 Highway #315
Wilkes-Barre, PA 18702-6929

(800) 432-8619 • (570) 819-2556
Fax: (570) 819-3268

Patsy J. Tallarico, PRESIDENT
Susan E. Houghton, VICE PRESIDENT
James P. Testerman, TREASURER
Carolyn C. Dumaresq, EXECUTIVE DIRECTOR

Affiliated with the National Education Association

March 2, 2001

Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
14th Floor
Pennsylvania Department of Education
33 Market Street
Hanover, PA 17105

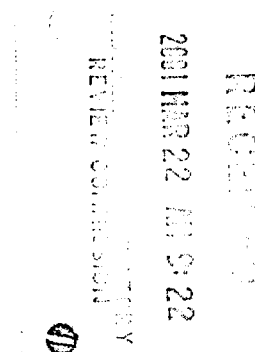
Dear Mr. Nyce:

I am adamantly opposed to removing class size limits from Chapter 14 for special education students as proposed. Please vote no on any proposal that would eliminate special education class size.

Thank you for your support.

Sincerely,

Michelle Bajor
Michelle Bajor



The PSEA mission

To advance quality public education for all students while fostering the dignity and worth of members through collective action.

Feb. 17, 2002

Dear Department of Education,

My name is Ethan and I am a student in a specialized Education class.

We need a small class size so our teacher can help all of us learn. I like being in a small class because we do special stuff to learn. If you change our class size to a big number it will be harder to get the extra help I need in class. Please reject chapter 14 and ~~keep~~ our class size the same. Give us a chance to get our education.

From,

Ethan Boone

1525 Marshall
Norristown PA 19403

1525 Marshall Street Elementary School
Norristown Area School District
1525 W. Marshall Street
Norristown, PA 19403

2144 MAR-5 AM 9:15
NORRISTOWN, PA
1525 MARSHALL STREET
19403

February, 27-2001

Dear Department of Education,

My name is Raymond and I am a Student in a special education class. We need a small class size so our teacher can help all of us learn. I like being in a small class because my teacher helps me whenever I need help. If you change our class size to a big number it will be harder to get the help I need in class. Please reject chapter 14 and meet our class size the same. Give us a chance to get our education.

From,

Raymond Green

2002 MAR -5 AM 9:15
RECEIVED
ADMISSION

February 27, 2002

Dear Department of Education,

My name is Jasmine and I am a student in a special education class. We need a small class size. Our teacher can help all of us learn. I like being in a small class because we learn with our hands and go on trips. If you change our class size to a big number, it will be harder for the extra help I need in class.

Please reject Chapter 14 and keep our class size the same. Give us a chance to get our education.

From, Jasmine Shannon

2002 MAR -05 AM 9:15
REVIEW COMMISSION

Dear Department of Education,

My Name is Michael Santamaria a
Student in a special education class
We need a small class size so our
teacher can help all of us learn
I like being in a small class

because we learn with our hands and
go on trips if you change our class
size to a big number it will be harder
to get the extra help I need in class
please reject chapter 11 and keep
our class size the same Give us a
chance to get our education from
Michael Santamaria

February 27, 2000

Dear Department of Education,

My name is Tommy and I am a student in a special education class. I need a small class size as teachers can help all of us learn. I like being in a small class because we learn without hand and go trips if you change our class size to big number it will be harder together extra help I need in class. Please reject chapter 14 and keep our class size the same give us a chance to get our education.

from, Tommy Faulk

1525 Marshall St.
Norristown PA 19103

Marshall Street Elementary School
Norristown Area School District
1525 W. Marshall Street
Norristown, PA 19103

Dwayne Original: 2144

February, 27, 2002

Dear Department of Education,
My name is DWAYNE and I am a student in a special
education class. We need a small class size so our
teacher can help all of us learn. I like being in a
small class because we do special stuff to learn.
If you change our class size to a big number it will
be harder to get the extra help I need in class.
Please reject chapter 11 and keep our class size the same.
Give us a chance to get our education.

FROM, DWAYNE

1525 Marshall St.
Norrstown, PA 19403

Marshall Street Elementary School
Norrstown Area School District
1525 W. Marshall Street
Norrstown, PA 19403

RECEIVED
2002 MAR -4 AM 8:44
NORRISTOWN SCHOOL DISTRICT
RECEIVED

Dear Department of Education,
 My Name is James and I am a student in a special
 education class. We need a small class
 size so our teacher can help all of us learn. I like
 being in a small class because we do special stuff
 to learn. If you change our class size to a big
 number it will be harder to get the extra
 help I need in class. Please reject Chapter
 14 and keep our class size the same. Give us
 a chance to get our education.

FROM,
 JAMES

1525 Marshall St.
 NORRISTOWN, PA 19403

1525 W. Marshall Street
 Norristown, PA 19403
 1525 W. Marshall Street
 Norristown, PA 19403

RECEIVED
 MAR 16 AM 8:44

RECEIVED
 MAR 16 AM 8:44

February, 27 2002...

Dear Department of Education,
My name is D'Shine and I am a student in a special education class. because we do special stuff to learn. If you change our class size to a big number it will be harder to get the extra help I need in class. Please reject chapter 14 and keep our class size the same. Give us a chance to get our education.

from,
D'Shine

1525 Marshall St.
Norristown, PA 19403

Marshall Street Elementary School
Norristown Area
1525 W. Marshall St.
Norristown, PA 19403

February 27, 2002

Dear Department of Education,

My name is Veronica and I am a student in a special education class. We need a small class size so our teacher can help all of us learn. I like being in a small class because we learn without hands and go on trips. If you change our class size to a big number it will be harder to get the extra help I need in class.

Please reject Chapter 14 and keep our class size the same. Give us a chance to get our education from Veronica Baynash.

1525 Marshall St.
Norristown, PA 19403

Marshall Street Elementary School
Norristown, PA 19403
No. 1525 Marshall St.
Norristown, PA 19403

2002 MAR - 6 AM 8:41
REVIEW COMMISSION