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2000 OCT -5 AM 10:42
REGULATORY
REVIEW COMMISSION

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OCT 2 2000
PA STATE BOARD
OF EDUCATION

291 Riverview Rd.
King of Prussia, PA 19406
September 28, 2000

Mr. Peter H. Garland, Executive Director
State Board of Education
333 Market Street
Harrisburg, PA 17126-0333

Dear Mr. Garland:

In response to your proposed relemaking to amend Chapter 14, please consider this recommendation regarding Sections 14.161 and 14.162.

It appears to me that the full scope of procedural safeguards is not covered. Namely, mediation is another option that should be mentioned in the proposed rulemaking. Mediation is also mandated as an option by the latest amendments to IDEA. Leaving this option out of the menu of procedural safeguards is a glaring omission.

Thank you for considering this recommendation.

Sincerely,


Joseph McMahon

Original: 2144

*Received & Responded
by e-mail 10/3/00*

October 2, 2000

Dr. Peter Garland, Executive Director
State Board of Education
333 Market Street
Harrisburg, PA 17126 - 03333

Re: The Proposed Changes to the Special Education Regulations
and Request to Testify

Dear Sir,

In my professional life, I act as a Special Master for the Court of Common Pleas of Lackawanna County, Pennsylvania. In my personal life, I am the parent of a child with a developmental disability. I am writing to you to share my experience and opinion as relates to the proposed changes to the special education regulations. It is my opinion the proposal represents a naïve, rather than practical, approach to the harsh realities families are dealing with within the existent special education system. Of special concern to me are two issues: 1) the proposed exclusion of Behavior Management Plans from qualifying IEP's and 2) the lack of any provision for reasonable parent visitation.

I believe my family's personal experience presents compelling argument for reconsideration of both these issues and would request an opportunity to testify to that experience should additional hearings be scheduled. Specifically, our son experiences autism and suffers from traumatic brain injury. He is placed in a regular educational setting with autistic support and is mastering the regular education curriculum. Neither we, nor our experts, have been permitted to view our child's placement since September, 1999. The school prohibits observation

within its general visitation policy under the guise of increased security measures implemented in response to incidents such as those that occurred at Columbine. The District has also declined permission for our outside experts to review the child's previous years classroom videotape record under guise of confidentiality issues. In November, 1999, the school inadvertently admitted to us that it was no longer implementing the child's pendant IEP. Instead, it had unilaterally decided to implement a proposed IEP which we had declined. The proposed IEP included a behavioral management component which incorporated high level, dangerous restraint procedures (3 person, face downs holds).

In reviewing the proposed plan, our expert, Dr. John McGonigle, (who has previously worked with the Department of Education in formulating its regulations and procedures), stated that these holds were dangerous; that a number of children had been seriously injured or killed during their application; and, that they were currently prohibited from use on children within the Mental Health profession because of their danger. He further advised that the school's accompanying behavioral support plan was devoid of any positive behavioral supports in the form of teaching alternative positive behaviors and that this, in conjunction with the restraint procedures, would effectively train the child to increased aggressiveness. This is, in fact, what we were observing.

Had my son continued under the existent program he might have been injured or, his negative behaviors progressed to such point that we could no longer keep him home. We have removed the child from the situation but the matter is far from being resolved.

The District has not responded to our request for an interim alternate placement and program. Since the issue of alternate placement is at the sole "discretion" of the District the child continues to sit home. (I should note, that the school has bothered to send us the appropriate truant notices.) I, myself have had to take an undetermined leave of absence from my position to stay at home with my son. We attempt to provide a continued education but our current options are limited. My son does not qualify for homebound, nor would it be appropriate.

If we declare our intention to home-school the child, the District may move to dismiss the existent due process action. No other local placement exists. Even other Districts who have or are in position to develop an appropriate program for the child will not do so (even under private placement/payment) without the consent of the child's home district.

We have been in due process on this, and other issues, since March, 2000. To date, we have expended over \$30,000.00 on this process. It has been our experience that the due process system is a farce. By example, one the first day of hearing. the hearing officer advised us, that as "parents", anything we had to say needed to be corroborated by other evidence. (I may be a parent, but I understand burden of proof). When we attempted meet this new burden of

proof and provide additional corroborative evidence, the hearing master disallowed it

because it was not originally submitted prior to hearing. Likewise, despite the nature of the issue (i.e. safety) the hearing officer disallowed classroom videotapes, direct evidence of the application of these holds being carried out on the child. (In so ruling, the hearing officer did not even bother to review the evidence for its probative value before disallowing it.) He likewise precluded the expert from testifying as to his opinion on these videotapes and he indicated (even prior to parent's expert testimony) that he would give light weight to parent's experts on the sole basis that they did not directly observe the child's classroom.

We have no doubt the case is bound for both an Appeals Board and if necessary, Federal Court review...that is if we can afford it.

In this case, a ruling in favor of the District will effectively sentence this child to a life of home schooling. (An outcome that would overjoy the District.) To do otherwise, would risk my son's continued safety as well as his ability to continue living at home. For so many of our children, IEP's are not just IEP's . They are our children's futures.

I wish that I could tell you our circumstance is an anomaly. It is not. I am aware of many families who have been ill treated and abused by the educational system. I personally have had over 350 hours training in teaching strategies specific to our sons disability, yet I am repeatedly treated as if I have been

misinformed, am misdirected, or as if I have simply had a lobotomy by the “educators” we have come in contact with. In general, have found educators possess fragile egos. They will often feign superiority rather than admit ignorance. It is as if not knowing something somehow conflicts with their title of “educator”. In this atmosphere and mind set, reasonable questions often go unanswered, with their most notable response during these times being “you need to have” faith”.

Having experienced the educational system these last 5 years I will readily admit, I have little “faith” left. Our life has been replete with “professional educators” who have told us this child couldn’t or wouldn’t, only to have us see the child repeatedly persevere and succeed. I can not begin to think of where this child would be had we listened to the “professional educators” with their self- imposed limitations.

What concerns me is proposed regulations have the effect of further silencing the parent voice. It places control squarely in the hands of Districts, who are faced with conflicting motivations. I hesitate to think of where my child’s best interest weighs in among those motivations. In many cases, providing the School District’s additional discretion, only gives them a hammer to hold over parents heads. It is a kin to the old cliché of having the fox watch over the hen house.

For as bad as the existent system is in practice, many of the proposed regulation changes offer a recipe for “how much worse can you make it.”

Where would my son be (where will he be) absent the requirement of a specific Behavior management plan in his IEP? Where are we because of your continued failure to specifically provide for reasonable parent observation.

Please, reconsider the proposed regulatory changes from a practical rather than theoretical perspective. Please, absent an outcry of immediate parent response, do not mistake our silence for acquiescence.

The practical truth is that parents of disabled children have all they can handle, often doing duty twenty four-seven just to manage the unique needs of their children. We count of your common sense and good judgment in drafting these regulations. I would implore you to use it.

Sincerely,

Holly A. O'Connor-Hricko
RR #1 Box 1519
Nicholson, PA 18446
(570) 945-5637

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Commonwealth of Pennsylvania
STATE BOARD OF EDUCATION

REGULATORY
REVIEW COMMISSION



October 2, 2000

Ms. Lisa Mattioli
President, LVPOBC
455 Cider Press Lane
Easton, PA 18042

Dear Ms. Mattioli:

Thank you for your letter dated September 29, 2000 on proposed revisions to regulations Chapter 14 (special education services and programs).

Your letter is considered as official public comment and is being shared with all members of the Board. Pursuant to the provisions of the Regulatory Review Act, copies of your comments are also being provided to the Independent Regulatory Review Commission (IRRC) and the chairmen of the House and Senate Education Committees.

Be assured that your comments will be considered carefully in the development of the final-form of these regulations.

Recent amendments to Regulatory Review Act include a provision that the final-form of regulations be mailed to public commentators at their request. While no longer required to do so, the Board will continue its practice of sending the final-form of the regulations to all public commentators. Therefore, it will not be necessary for you to make a specific request for it.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Peter H. Garland".

Peter H. Garland
Executive Director

cc: Members of the State Board
Senator Rhoades
Senator Schwartz
Representative Stairs
Representative Colafella
IRRC

**LVPOBC Lehigh Valley Parents of Blind Children
A Division of the National Federation of the Blind**

Lisa Mattioli, 455 Cider Press Lane, Easton, PA 18042

Pa. State Board of Education
333 Market St.
Harrisburg, Pa. 17126-0533

TESTIMONY CHAPTER 14 REGULATIONS

I am sure the Pa. State Board of Education is aware of the specific concerns of parents and advocates with the proposed Chapter 14 regulations. Although I am concerned about the loss of protections that have been in place in Pa. and the effect on students, I will not comment on the specific items.

Clearly, it is easier to enforce and monitor regulations when there are fewer regulations. My experience as an advocate for blind/visually impaired children makes me believe that fewer regulations will make it easier for school districts to provide less services.

School districts looking for ways to restrict services interpret laws and regulations to support this. With fewer regulations, this situation can only get worse.

As an example, the new IEP form has already created problems. The form, unlike the previous form, has no place for a parent to sign agreement or disagreement with the IEP.

The parent now signs only for agreement or disagreement with placement on the NORA.

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(610) 253-8446

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Sept. 29, 2000

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OF EDUCATION

With this system, there is no way to determine if the IEP is completed. There is no way to agree or disagree with the IEP. There can be disagreement with the IEP and agreement with placement. There can also be disagreement with the IEP and/or placement but placement is appropriate for the IEP as written.

The problem with completion of an IEP is one which arose at two recent IEP meetings I attended for the same student. The burden to remedy the problem now falls on the parent.

There must have been some reason not to require a parent signature on the IEP. If relying on the good faith of school districts to determine if an IEP is completed can cause this much of a problem, what kind of problems are less regulations going to cause?

Fewer regulations will work with a school district interested in the best way to serve the child. It will not work with a school district interested in putting obstacles in the way of a child's education.

Sincerely.



Lisa Mattioli

President, LVPOBC

*Received & Responded
by e-mail 10/3/00*

Original: 2144

Special People In Northeast Inc.
10521 Drummond Road
Philadelphia, PA 19154

Dr. Peter Garland
Executive Director
State Board of Education
333 Market Street
Harrisburg, PA 17126-0333

October 2, 2000

Dear Dr. Garland:

I am writing in response to the proposed changes to the state special education regulations (chapter 14) as published in the September 2, 2000 Pennsylvania Bulletin. I recommend that the regulations clearly explain each area being discussed and not just reference the federal regulations. This would make the regulations much more readable and understandable.

The proposed regulations eliminate the current requirement that behavior plans be part of an IEP for all children with behavior problems that interfere with their learning. I would like to see this requirement written back into the regulations, as it is a sound educational practice.

I recommend that the language describing an eligible young child eliminate the need for special education services. Keeping the language as it is proposed would prevent children who have physical delays, but no cognitive or language delays, from receiving services. These children are just as in need of services as their peers who require "special education."

I further recommend that school districts should provide agreed upon services within 10 school days, as stipulated in the current regulations, rather than the proposed deadline of "as soon as possible."

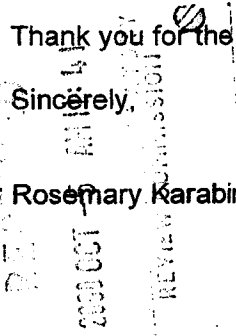
Evaluation for children ages three to five has been move to every two years in the proposed regulations. I recommend that evaluations continue to be required annually. If it is changed to every two years, then a statement should be added to the effect that any member of the team could request an evaluation at any time.

Lastly, I would like to see families' right to a pre-hearing conference included in the regulations. Most disputes are settled at this level and it would prevent unnecessary costs to both the family and the state.

Thank you for the opportunity to have input into the proposed regulations.

Sincerely,

Rosemary Karabinos



Original: 2144

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REVIEW COMMISSION



Commonwealth of Pennsylvania
STATE BOARD OF EDUCATION

October 2, 2000

Ms. Wendy Luckenbill
Ms. Janet Lonsdale
Parents Involved Network of PA
C/O The ARC Bldg. #2
Suite 221, 2001 North Front Street
Harrisburg, PA 17102

Dear Ms. Luckenbill and Ms. Lonsdale:

Thank you for your letter dated September 8, 2000 on proposed revisions to regulations Chapter 14 (special education services and programs).

Your letter is considered as official public comment and is being shared with all members of the Board. Pursuant to the provisions of the Regulatory Review Act, copies of your comments are also being provided to the Independent Regulatory Review Commission (IRRC) and the chairmen of the House and Senate Education Committees.

Be assured that your comments will be considered carefully in the development of the final-form of these regulations.

Recent amendments to Regulatory Review Act include a provision that the final-form of regulations be mailed to public commentators at their request. While no longer required to do so, the Board will continue its practice of sending the final-form of the regulations to all public commentators. Therefore, it will not be necessary for you to make a specific request for it.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Peter H. Garland".

Peter H. Garland
Executive Director

cc: Members of the State Board
Senator Rhoades
Senator Schwartz
Representative Stairs
Representative Colafella
IRRC

VALUE

Vision and Leadership Uniting Education

A Coalition of Pennsylvania Advocacy Groups for Children with Disabilities

September 8, 2000

Dr. Peter Garland
Executive Director
State Board of Education
333 Market Street
Harrisburg, PA 17126-0333

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SEP 11 2000

PA. STATE BOARD
OF EDUCATION

Dear Dr. Garland:

On behalf of the over 50,000 constituents we represent under the VALUE Coalition we are emphatically requesting that you allow us the time to properly respond to your request for comments regarding the revision of Chapter 14, (Special Education Regulations). These revised regulations were only published on September 2, with hearings and comments due in less than a month. (Persons must register to testify by Sept. 12, hearings are Sept. 15 - Harrisburg, 21 - Philadelphia, 25 - Pittsburgh.)

We need time to advise our constituents of this monumental proposed revision of our children's special education rights. The constituents in turn need time to review and respond thoughtfully and fully to your request for comments. Frankly, this process could not come at a worse time for families of children in special education. It begs the question of how well the Department and Board are acquainted with the plight of children in special education and their families. The beginning of school is chaotic for everyone but especially for families struggling to ensure there is a current IEP in place and that services are appropriate and implemented.

We are, therefore, requesting that the same courtesy be extended to our constituents as was to the early intervention constituents when they were given an initially equally short comment period by the PA Department of Welfare, when early intervention regulations were recently revised. When DPW received similar requests for extended time and additional hearings, they responded by adding an additional 60 day period of comment to the initial 30 comment period, increasing the comment period to 90 days. DPW also increased the hearing from 3 to 5. We also request that the hearings moved back by at least 30 days to allow us time to give adequate notice to our busy and overwhelmed families.

We are thanking you in advance for your sensitivity and respect to our request. We are sure that the importance of collaborating with families of the children you serve is as important to you as it is to them. Please let our voices be heard.

Wendy Luckenbill Janet Lonsdale

Wendy Luckenbill and Janet Lonsdale
Parents Involved Network of PA
For VALUE

cc: Dr. Eugene Hickok, Secretary of Education
PA Department of Education
333 Market Street
Harrisburg, PA 17126-0333

Gov. Tom Ridge
225 Main Capitol Building
Harrisburg, PA 17120-2020

Contact VALUE:

C/O The ARC Bldg. # 2, Suite 221, 2001 North Front Street, Harrisburg, PA 17102
Telephone (717) 234-2621 FAX (717) 234-7615

Original: 2144



Commonwealth of Pennsylvania
STATE BOARD OF EDUCATION

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REGULATORY REVIEW COMMISSION



October 2, 2000

Ms. Karen S. Guerra
1860 Ferguson Lane
Blue Bell, PA 19422

Dear Ms. Guerra:

Thank you for your letter dated September 12, 2000 on proposed revisions to regulations Chapter 14 (special education services and programs).

Your letter is considered as official public comment and is being shared with all members of the Board. Pursuant to the provisions of the Regulatory Review Act, copies of your comments are also being provided to the Independent Regulatory Review Commission (IRRC) and the chairmen of the House and Senate Education Committees.

Be assured that your comments will be considered carefully in the development of the final-form of these regulations.

Recent amendments to Regulatory Review Act include a provision that the final-form of regulations be mailed to public commentators at their request. While no longer required to do so, the Board will continue its practice of sending the final-form of the regulations to all public commentators. Therefore, it will not be necessary for you to make a specific request for it.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Peter H. Garland".

Peter H. Garland
Executive Director

cc: Members of the State Board
Senator Rhoades
Senator Schwartz
Representative Stairs
Representative Colafella
IRRC

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Karen S. Guerra

REVIEW COMMISSION

**1860 Ferguson Lane
Blue Bell, PA, 19422
610-277-8644
Fax 610-277-4072**

September 12, 2000



**Mr. Tom Ridge
Governor
Commonwealth of Pennsylvania
225 Main Capitol Building
Harrisburg, PA17120**

Dear Mr. Ridge,

I am writing to you to tell you what a success the current Chapter 14 regulations are for the state of Pennsylvania. My son Cosmo has been the beneficiary of our state's leading edge approach to special education. I have no doubt that our state's Governor, Board of Education and legislators realize that the appropriate and available education of all our children is essential to our state's current and future economic and societal success.

Let me tell you how my son and family have personally benefited from Chapter 14 as it exists today:

- In 1995 my son met the criteria of a Pervasive Developmental Disorder-Not Otherwise Specified (PDD-NOS) diagnosis. He had many aspects of the disorder, but not all. Regardless, he was eligible for placement in a specialized Montgomery County Intermediate Unit (MCIU) Early Intervention (EI) class. His participation in this setting brought such dramatic results that within a year he had moved to a higher functioning class. In addition, he attended a "typical" Pre-Kindergarten class. The intensity of his early intervention provided him with the skills he needed to be ready to be fully included (with supports) in kindergarten and beyond.
- Throughout his MCIU contact and continuing with his inclusion in the Wissahickon School District, the ready availability of qualified Certified School Psychologists ensured that my son was accurately evaluated and appropriately placed. Without the specialized training of these professionals and their good judgement, I might have been denied access to what I was confident was the best placement for my son.
- I never had to wait to find the right place for my son because the imperative of prompt response was included in the regulations that governed the process of



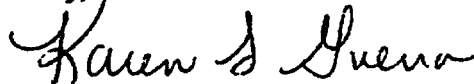
It's 2000 and it's an election year-- does anyone really want to take these benefits and services away from my son, my family and the other Pennsylvania children and families who currently look with confidence on the opportunities that Chapter 14 affords them?

This is not negativity that I bring to you. This is the positive endorsement of what we in Pennsylvania have. It's not perfect, but for my son Cosmo it is as close to "just another kid" as I could ever have hoped to achieve.

Gut Chapter 14 and you lose. Strip down Chapter 14 and you guarantee additional costs elsewhere down the line in the lives of thousands of children in Pennsylvania.

Leave Chapter 14 as it is today, or alter it only to expand and improve its regulations, and you will shine before this country as the state that truly puts *all* of its children first.

Sincerely,



Karen S. Guerra

Original: 2144

*Responded by e-mail
10/3/00*

Benkovic, Susan

From: Judygran@aol.com
Sent: Monday, October 02, 2000 12:27 PM
To: 00statbd@email.cas.psu.edu
Subject: Comments on Proposed Ch. 14 Regulations

October 2, 2000

State Board of Education
Pennsylvania Department of Education
333 Market Street
Harrisburg, PA 17126-0333

Dear Members of the State Board of Education:

On behalf of The Arc, Pennsylvania, I am writing to comment on the proposed amendment to 22 Pa. Code, ch. 14 that is set forth in 22 Pa. Code § 14.162(i). The amended regulation provides that in an impartial due process hearing and expedited due process hearing,

"Parents may be represented by legal counsel and accompanied and advised by individuals with special knowledge and training with respect to the problems of children with disabilities."

I assume the term "represent" carries its usual meaning both in law and ordinary discourse, that is, "to stand in [one's] place; to supply his place; to act as his substitute" (Black's Law Dictionary).

The proposed regulation conflicts with the requirements of the consent decree in *PARC v. Commonwealth*, 343 F.Supp. 279, 305 (1972). That decree provides that in a hearing concerning the educational program of a student with retardation,

"The parent or guardian of the child may be represented at the hearing by any person of his choosing, including legal counsel."

Amended Stipulation 3(q) (emphasis added). The decree also requires the Commonwealth to assure that the notice provided to the parent or guardian informing him of his right to contest a proposed change in the educational status of his child, "shall inform the parent or guardian of his right to be represented at the hearing by any person of his choosing, including legal counsel." The current Chapter 14 regulation, 22 Pa. Code § 14.64(h) incorporates the requirements of the *PARC* consent decree by providing that "[p]arents may be represented by any person, including legal counsel" at a due process hearing.

The preamble to the proposed regulation indicates that the Office of Attorney General requested that § 14.162(i) be changed "to make clear

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that,
both under federal statute and regulations and under state law, licensed attorneys only may represent parents in due process proceedings." However, it is simply incorrect to state that federal law imposes any such limitation on parents' representatives at a due process hearing. The Individuals with Disabilities Education Act confers upon "Any party to a [due process] hearing"

(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses.

20 U.S.C. § 1415(h) (2000). The statute plainly does not state that a "licensed attorney only" may represent parents in due process proceedings. To the contrary, it places "counsel" and "individuals with special knowledge or training" on exactly the same footing in a due process hearing, by stating that both may "accompany and advise" a party. The statute does not distinguish, as the proposed regulation does, between persons who may "represent" and those who may "accompany and advise." It simply does not mention "representation." To read that silence as a proscription would mean that no party to a due process hearing, including a school district, could act through a representative at the hearing. In any case, the proposed language does not mirror the language of the Act but rather adds the limitation, "parents may be represented by legal counsel."

As parties to the consent decree in PARC, the Commonwealth and its Department of Education, the Secretary of Education and the Director of the Bureau of Special Education have the duty and obligation to ensure that students with retardation and their parents and guardians enjoy the rights protected by that decree, including the right to be represented by any person of their choosing in a due process hearing. Promulgation of a regulation that nullifies that right by limiting representation to "legal counsel" plainly violates those obligations and, we would submit, may be construed as contempt of the decree. We further submit that subjecting families of any learning disability, including retardation, contravenes the Education act and should be rejected.

Very truly yours,

PUBLIC INTEREST LAW CENTER OF
PHILADELPHIA

By: Judith A. Gran

cc: Janet Albert-Herman

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Commonwealth of Pennsylvania
STATE BOARD OF EDUCATION

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October 2, 2000

Ms. Carol Collingtor
5304 Fern Street
Pittsburgh, PA 15224

Dear Ms. Collingtor:

Thank you for your letter dated September 18, 2000 on proposed revisions to regulations Chapter 14 (special education services and programs).

Your letter is considered as official public comment and is being shared with all members of the Board. Pursuant to the provisions of the Regulatory Review Act, copies of your comments are also being provided to the Independent Regulatory Review Commission (IRRC) and the chairmen of the House and Senate Education Committees.

Be assured that your comments will be considered carefully in the development of the final-form of these regulations.

Recent amendments to Regulatory Review Act include a provision that the final-form of regulations be mailed to public commentators at their request. While no longer required to do so, the Board will continue its practice of sending the final-form of the regulations to all public commentators. Therefore, it will not be necessary for you to make a specific request for it.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Peter H. Garland".

Peter H. Garland
Executive Director

cc: Members of the State Board
Senator Rhoades
Senator Schwartz
Representative Stairs
Representative Colafella
IRRC

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Things to do

SEP 26 2000

PA. STATE BOARD
OF EDUCATION

☉

- Quote Graphika!
- Dear Doctor peter
- Garland, Executive
- Director,
- I'm asking for time
- to re-schedule the
- hearing to October 2, 000
- and to extend the time
- to comment on these
- issues. The ^{pending} regulations
- are in Code and doesn't

CROWN
Vantage

Printed on Graphikal Smooth Text, Pueblo, Basis 70

Not help families to understand what is required.

This makes it more difficult for families to enforce. And more is left to the discretion of local districts.

PS I am as IEP's (there is danger of the soon as possible deadline - totally unfair to gifted children as well as disabled) Important. Papers are too open for the insurance and well-being of our children.

Ms. Carol R. Collyer

Welfare Rights Client Advocate
(statewide) | 412 441-0428
689-9371

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Commonwealth of Pennsylvania
STATE BOARD OF EDUCATION

REGULATORY
REVIEW COMMISSION



October 2, 2000

Ms. Denise Ehner
4506 Eland Downe
Phoenixville, PA 19460

Dear Ms. Ehner:

Thank you for your letter dated September 26, 2000 on proposed revisions to regulations Chapter 14 (special education services and programs).

Your letter is considered as official public comment and is being shared with all members of the Board. Pursuant to the provisions of the Regulatory Review Act, copies of your comments are also being provided to the Independent Regulatory Review Commission (IRRC) and the chairmen of the House and Senate Education Committees.

Be assured that your comments will be considered carefully in the development of the final-form of these regulations.

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Sincerely yours,

A handwritten signature in black ink, appearing to read "Peter H. Garland".

Peter H. Garland
Executive Director

cc: Members of the State Board
Senator Rhoades
Senator Schwartz
Representative Stairs
Representative Colafella
IRRC

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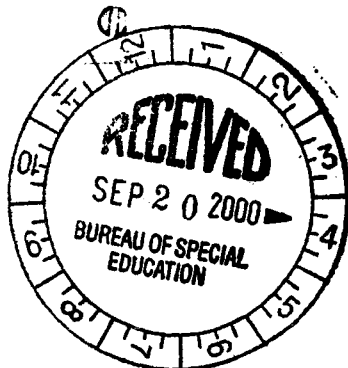
4506 Eland Downe
Phoenixville, PA 19480

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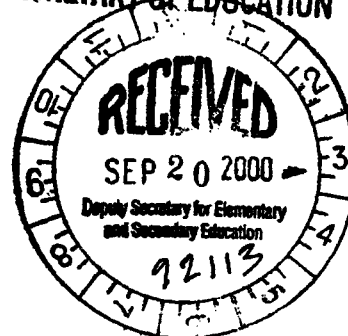
REVIEW COMMISSION

September 18, 2000

Mr. Eugene Hickock
Secretary of Education
333 Market St.
Harrisburg, PA 17126-0333



RECEIVED
SEP 20 2000
2435
SECRETARY OF EDUCATION



Dear Mr. Hickock,

I am writing regarding the proposed changes to Chapter 14. I am seriously concerned that the State would choose to make recommendations instead of regulations to safeguard our children's education. This is a population of children that most need our attention.

Parents need to be able to advocate for their children. The new Chapter 14 will be virtually impossible for parents to understand. It makes constant reference to the complex federal regulations. These regulations are generally not available to families. I previously worked as a school psychologist and saw first hand that school districts will do as little as possible. To allow school districts to set their own teacher caseload will create serious problems. Poorer districts will increase class sizes to save money. While this may seem fiscally sound in the short term, this would be a detriment to these children's education and will cost us all in the future. To say that services in an IEP should be implemented "as soon as possible" could cost children valuable time getting services started. The time frame must be specific such as the current 10 days.

For children with behavior disorders, it is imperative that behavior plans be incorporated in the IEP. Inconsistent responses or lack of appropriate responses will maintain and increase the inappropriate behavior and negatively impact the education of these children.

Children in the care of the state also need to be ensured of someone to advocate for them. Just because they are no longer in the care of their families does not mean that their education should suffer.

Please do not eliminate the regulation that sets the range of services for children. Parents need to be aware of the choices that they have for placement. Schools need to be mandated to provide a variety of programs to ensure children are educated in the least restrictive environment in which they are capable of learning. Parents should also be able to visit their child's school and classroom to ensure consistency across environments.

Finally, I feel it would be irresponsible to reduce eligibility for Early Intervention programs. I realize that expense is always an issue but early intervention is the first step in reducing services later in the child's education. This, again, will cost more in the future. It is also important to create regulations to make sure that the transition from early intervention into I/I programs is "smooth".

Children, even children with special needs, are our most precious resource. Please do not sacrifice their education.

Sincerely,



Denise Ehner

CC:

Dr. Peter Garland, Executive Dir. State Board of Ed.

Independent Regulatory Review Commission

Gov. Tom Ridge

Original: 2144



RECEIVED

2000 OCT -5 AM 10:42

Commonwealth of Pennsylvania
STATE BOARD OF EDUCATION

INDEPENDENT REGULATORY
REVIEW COMMISSION



October 2, 2000

Ms. Eleanor L. Bush, Esq.
Ms. Lourdes M. Rosado, Esq.
Juvenile Law Center
The Philadelphia Building
1315 Walnut Street, 4th Floor
Philadelphia, PA 19107

Dear Ms. Bush and Ms. Rosado:

Thank you for your letter dated September 29, 2000 on proposed revisions to regulations Chapter 14 (special education services and programs).

Your letter is considered as official public comment and is being shared with all members of the Board. Pursuant to the provisions of the Regulatory Review Act, copies of your comments are also being provided to the Independent Regulatory Review Commission (IRRC) and the chairmen of the House and Senate Education Committees.

Be assured that your comments will be considered carefully in the development of the final-form of these regulations.

Recent amendments to Regulatory Review Act include a provision that the final-form of regulations be mailed to public commentators at their request. While no longer required to do so, the Board will continue its practice of sending the final-form of the regulations to all public commentators. Therefore, it will not be necessary for you to make a specific request for it.

Sincerely yours,

A handwritten signature in cursive script, reading "Peter H. Garland".

Peter H. Garland
Executive Director

cc: Members of the State Board
Senator Rhoades
Senator Schwartz
Representative Stairs
Representative Colafella
IRRC

Juvenile Law Center

www.JLC.org • Advancing the rights and well-being of children in jeopardy • Founded 1975
The Philadelphia Building • 1315 Walnut Street, 4th Floor • Philadelphia, PA 19107 • (215) 625-0551 • FAX: (215) 625-2808 • in PA: (800) 875-8887

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REVIEW COMMISSION

September 29, 2000

RECEIVED
OCT 2 2000
PA STATE BOARD
OF EDUCATION

Dr. Peter Garland
Executive Director
State Board of Education
333 Market Street,
Harrisburg, PA 17126-033

RE: Comments on proposed Title 22 Pa. Code Chapter 14 regulations

Dear Dr. Garland:

We appreciate this opportunity to comment on the proposed regulations for early intervention and special education services.

Juvenile Law Center is a non-profit, public interest law firm which advances the rights and well-being of children in jeopardy. Our comments on the proposed regulations focus on the ability of children living in foster care -- abused or neglected children who have been removed from their homes by the county children and youth agency -- to timely access early intervention and special education services. Specifically, we urge the Department to include the full text of the federal regulations that provide for the appointment of surrogate parents to these children when their biological parents are unavailable.

We understand that the Department proposes to incorporate these federal regulations by reference. However, our experience representing individual children, as well as the experiences of our professional colleagues among health care providers and providers of social services, tell us; (1) that the process of obtaining an appropriate surrogate parent is already confusing; and (2) that few service providers are aware of the existing requirements and how they benefit children. By merely referencing the federal regulations instead of setting forth the requirements, the Department will exacerbate this

STAFF:

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Debbie A. Hollimon
Joann Viola

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(1976-1993)

problem and do a disservice to children. We recommend that the Department include the full text of the federal language as one key step toward facilitating the provision of services to children living in foster care.

Of all the young children who need and can benefit from early intervention services, young children living in foster care are among the most vulnerable. Typically, children entering foster care have histories of prenatal exposure to drugs or alcohol as well as experiences of neglect, abuse, and fragmented medical care. Because of their life circumstances, these children experience higher rates of developmental delays than those found among the general population.

Unfortunately, too many of these children face obstacles to obtaining the services they need. According to health care providers, social service providers and foster parents, at least three problems prevent foster children from obtaining services promptly. First, confusion exists regarding who has authority to consent to evaluations for foster children. Second, delays occur in obtaining evaluations and services when children's birth parents cannot be located or persuaded to participate. Finally, appointment of surrogate parents is neither prompt nor consistent. Of course, when children experience delays in obtaining services, they lose some of the benefit of those services, and their own development may continue to lag, making it even harder to help them "catch up" when services do start.

Part of the answer to improving the provision of these critical services to foster children lies in taking full advantage of opportunities for the children's foster parents to act in the place of the children's birth parents when the latter are unknown, unavailable, or have had their legal rights extinguished. When birth parents are not involved, foster parents are often best situated to fulfill a parent's responsibilities for early intervention and special education decision-making. Foster parents have physical custody of the children and day to day responsibility for their care. They often know the children better than any other adult and often can advocate very effectively for them.

The Department's proposed regulations are flawed because they fail to spell out the definitions of "parents" and "surrogate parents" that would allow foster parents, if they met the necessary requirements, to obtain early intervention and special education services on behalf of their foster children. Instead, the regulations simply refer the reader back to the applicable federal regulations. To maximize the opportunities for foster parents to take responsibility for early intervention and special education decision-making, the Department should include the full text of the of the federal regulations. The regulations should state that foster parents are the preferred choice as surrogate parents, and should be chosen to serve in that capacity if they meet the necessary legal requirements (e.g., age and no conflict). The regulations should also require districts to maintain a pool of trained surrogate parents,

and, in the absence of an available foster parent, to assign a surrogate within five (5) days of identifying a need. This effort would go a long way toward demystifying an already complex process.

Thank you again for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "E. L. Bush" followed by a long horizontal line extending to the right.

Eleanor L. Bush, Esq.
Lourdes M. Rosado, Esq.

*Responded by e-mail
10/3/00*

Benkovic, Susan

From: DIS912@aol.com
Sent: Sunday, October 01, 2000 10:34 PM
To: 00statbd@email.cas.psu.edu
Subject: PROPOSED SPECIAL EDUCATION CHANGES

RECEIVED

2000 OCT -5 AM 11:41

Dear Sir or Madame:

REGULATORY
REVIEW COMMISSION

Imagine for a moment that you are the parent of a child who has developmental disabilities. You have spent several years searching for specialists to diagnose what you have known to be problems, spent months doing research to better understand the issues as well as the related social, developmental, and educational challenges, spent weeks preparing for meetings with school officials who speak in acronyms and about labels, and have spent endless days worrying about how your child will move throughout his or her childhood with some element of normalcy despite the realities of the situation.

Now imagine that you have exhausted your savings, sold your home, borrowed money from family and friends, lost your job, and find that the systems that are supposed to help are actually hindering your ability to provide the support, tools and services that your child is depending upon.

Think this is a fictional tale? Think again. This is the reality of life for parents of special needs children throughout Pennsylvania. And now, proposed changes to Chapter 14 and the elimination of Chapter 342 are going to make situations more challenging -- if not impossible -- for many parents and their children.

A harsh look at the reality of life for parents of children labeled "special needs" or "special education" shows that they live life being constantly prepared for battle; a battle which requires endless energy and resources and one where surviving is often times as important as winning. From school to family to social events to the playground, parents of special education children are constantly trying to level the playing field, to provide their children with an opportunity to learn, play and live in a fair and accepting world. They struggle to secure services which are fleeting at best. They struggle to remain integral to a process which often times seems beyond finger grasp. They struggle to ensure that the people who are often across a conference room table are not just hearing, but "listening" to the issues, needs, and concerns. And all the while, everyone involved in this process seems to forget that these parents, who are so emotionally and

spiritually
raw, are painfully in need of their own support, guidance and counsel.

Forget about everything you've heard about work/life balance, mothers trying to be "superwomen," or fathers taking paternity leave. The real unsung heroes who truly do it all and strive to break new ground are these parents.

So how can these parents secure the support they need when finances are depleted? How can they ensure that an objective viewpoint, which is advocating for them and their child, is included throughout a process which is often endless? Through the ability to utilize LAY ADVOCATES. Not attorneys providing legal counsel, psychologists providing educational testing, or speech therapists providing language therapy, but individuals who have the knowledge, experience and commitment to ensure that fairness and respect are woven into each meeting, IEP conference, and due process hearing.

At a time when a parent's emotions are running at their highest, this is when this objective individual sitting next to them is needed most. Let's not forget -- this isn't about what's best for the school district; it's what's needed for the child.

It serves no benefit to anyone to deny parents the ability to access the services of lay advocates to assist in the special education process for their children. Many parents cannot afford the high legal fees associated with ongoing legal counsel. Many parents do consult with attorneys when specific needs arise. The decision of whether to engage a lay advocate and/or an attorney is one to be made by the parent. Taking this choice away from parents who are already under tremendous stress is totally unacceptable and unwarranted.

School districts have the resources at their fingertips to engage legal counsel when necessary. Parents who do not have access to the same resources must be able to use lay advocates to ensure that the process is fair and balanced.

Please feel free to contact me should you have any questions. Thank you.

Debra Schafer
215-441-4994

Original: 2144

*Responded by e-mail
10/3/00*

Benkovic, Susan

From: Wetookids@aol.com
Sent: Saturday, September 30, 2000 9:28 PM
To: 00statbd@email.cas.psu.edu
Subject: Chapter 14 elimting of chapter 342

I heard that they are going to prohibit parent advocates to represent parents at due processing, IEP ets...This proposed regulation would require parent to hire a lawyer. As one of those parents I am unable to afford a lawyer. With all of the expenses that I have at this time.

I had to quit my job so I can work closely with my son. I can't trust any of the services the school district have to offer. Without the help of a parent advocate, my son would have gotten lost. SO I find this proposal particular disturbing. Another note children are lost without their parents. So parents helping parents, are children will never get lost.

Thank you.....

RECEIVED
2000 OCT -5 AM 11:41
REVIEW COMMISSION

Original: 2144

Benkovic, Susan

To: Steve Kossor

Subject: RE: Urgent -- parents NEED advice from advocates!

Thank you for your e-mail regarding proposed revisions to regulations on special education programs and services. Your e-mail is being shared with Board members and key Department staff and will be considered carefully by the Board as it develops the final form of these regulations. We appreciate your commitment to this important matter. Sincerely yours, Peter H. Garland, Executive Director

-----Original Message-----

From: Steve Kossor [mailto:sakossor@voicenet.com]

Sent: Sunday, October 01, 2000 1:26 AM

To: 00statbd@psupen.psu.edu

Subject: Urgent -- parents NEED advice from advocates!

Please reconsider the planned ban on allowing parents to choose an adviser (or advocate) of their choice to assist them in presenting their requests and information at due-process hearings and other meetings intended to overcome obstacles in the delivery of an appropriate education to their child! It doesn't take a lawyer to make a meaningful contribution to such discussions; in my experience, lawyers tend to muddy the waters unnecessarily as they posture to out-do one another. The best advice that a parent could have at one of the most vulnerable times in their lives -- when they're trying to stand up for their disabled child -- is someone who they consider a FRIEND. I've been in that situation many times, and believe me, it has enabled the parents to resolve their complaints peacefully and equitably on every, single occasion. I've also attended a few unfortunate meetings that have been "lawyered" to death, almost literally.

Preventing parents from having the support of a trusted adviser at these meetings is going to cause much, much more harm than good, because the gross imbalance of power that it creates will undoubtedly result in more desperate, unreasonable actions on the part of parents -- who are desperate enough as it is.

Steven Kossor
Licenced Psychologist
Certified School Psychologist

2000 OCT -5 11:11:41
REVIEW COMMISSION

Original: 2144

*Responded by e-mail
10/3/00*

Benkovic, Susan

From: Lorraine Ratajczak [ratajcz@pobox.upenn.edu]
Sent: Saturday, September 30, 2000 4:00 AM
To: 00statbd@email.cas.psu.edu
Subject: comments re proposed sp ed regs

A hard copy of the letter below has been mailed to you separately. (I can't E-mail the photo I mention, but it's included with the hard copy of the letter.)

=====
Lorraine A. Ratajczak
ratajczak@isc.upenn.edu

Internet:

-----begin
letter-----
1429 Center Street
West Chester, PA 19382-6528
September 29, 2000

Dr. Peter Garland
Executive Director
State Board of Education
333 Market Street
Harrisburg, PA 17126-03333

RECEIVED
2000 OCT -5 AM 11:41
STATE BOARD OF EDUCATION
HARRISBURG, PA

Dear Dr. Garland:

Enclosed is a photo of my seven-year-old son, Cyrus, who has autism. Currently, he is getting the educational supports he needs. But I am very worried about the proposed changes to state special education and early intervention pre-school regulations. If I were to detail all my concerns, this letter would be at least four pages long!

I was upset to hear that, after the State Board voted on the proposed regulations, the Board removed a very important right that was guaranteed under the old regulations: the right of parents to choose whomever they wish to represent them during Due Process Hearings. This is an illegal change--the guarantee is required per the PARC Consent Decree. It is also an unjust change--parents of gifted students would have this guarantee under the proposed Chapter 16, and non-lawyers can represent individuals at other administrative hearings, such as worker's compensation hearings. This guarantee must be included in the state special education and early intervention pre-school regulations.

That is a new issue, but there are many issues that have worried me since the proposed regulations were originally published. First, those most directly

affected by the proposed regulations--families and school districts--will find it very difficult even to find out what those regulations entail, because the federal regulations are incorporated by reference. How well could the regulations be enforced if it is so hard to find out what they even are? It would be much better if the State Board would include the federal language in its entirety (as the Pennsylvania Department of Public Welfare has done in its recent proposal for regulations implementing the Infants and Toddlers with Disabilities Program).

The proposed regulations would do away with statewide standards that are vital to ensuring that special education students receive a free, appropriate public education. For example, one of the many important protections in current law is that districts provide agreed upon services within 10 school days of the completion of a child's IEP. (Under the new proposal the deadline is "as soon as possible," which could differ from district to district and from case to case.) If, as is proposed, each district will be able to set its own policy on teacher caseloads for special education classes, and the age range of the students in those classes, I foresee families moving to districts known to provide services promptly and well. Those unable to move would simply be out of luck. (That is both unfair and unacceptable.) And the school districts that have policies providing good support for special education students will find themselves carrying more than their fair share of the special education burden.

Another important protection in current law that is included neither in the proposed regulations nor in federal law is the a key requirement that a behavior plan must be included in the IEPs of children with "behavior problems which interfere with ... ability to learn." For many years, Pennsylvania has wisely maintained this requirement, and it ought to continue to do so. When a child has behavior problems, a behavior plan is vital to enabling a child's educators to maximize that child's chances for achieving his or her IEP goals.

The proposed regulations do not include certain important requirements from existing Basic Education Circulars, such as those in the February 1, 1999 BEC entitled, "ESY Eligibility." Such requirements ought to be included in the regulations, to ensure they have the force of law.

The proposed regulations also offer no guidance on how local education agencies (LEAs) are to implement important new federal requirements, such as the inclusion of children with disabilities in statewide assessments, with necessary

accommodations, or the identification of an alternate mode of assessment.

The proposed regulations do not close loopholes in the current regulations that have been found to lead to abuses. For example, as in the current regulations, the proposed 14.123(b) states that the initial evaluation will be completed no later than 60 school days after the agency receives, "written parental consent." This language should be changed to, "no later than 60 school days from the date the request for evaluation was received from the parent." An alternate approach would be to require an LEA to request parents' written consent within 5 days of the LEA's receipt of a request for an evaluation.

I could go on and on!

Because it took so long for the proposed regulations to be published, concerned parties have had very little time to comment or to sign up for the hearings. I urge you to re-schedule the hearings until October, and to extend the time to comment.

I also urge you to act on the concerns of parents like me. Thanks to the protections provided under the current special education regulations, my son has a fighting chance to become an adult who can live independently and contribute to the commonwealth. Please don't take that chance away from him and all the others like him in Pennsylvania!

Very truly yours,

Lorraine A. Ratajczak

cc: The Honorable Tom Ridge, Governor of Pennsylvania
The Honorable Eugene Hickok, Secretary of Education
The Honorable Elinor Taylor
The Honorable Robert J. Thompson
The Independent Regulatory Review Commission

-----end
letter-----

Original: 2144

753 Shearer Street
North Wales, Pennsylvania 19454-2747
September 30, 2000

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2000 OCT -5 AM 11:42

INDEPENDENT REGULATORY
REVIEW COMMISSION

Independent Regulatory Review Commission
14th Floor
333 Market Street
Harrisburg, Pennsylvania 17101

Subject: Proposed Revisions to Chapters 14 and 342

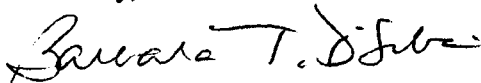
Dear Independent Regulatory Review Commission:

I had the opportunity to testify at the public hearing on September 21, 2000 regarding my grave concerns with the proposed revisions to Chapters 14 and 342. Attached is a copy of my testimony as well as 19 letters from concerned parents, therapists, and educators. These 19 letters were also presented to Dr. Peter Garland and the Board of Education during my testimony on September 21. Attached are three other letters which I received after giving my testimony.

Commission, please do not pass these proposed regulations. The proposed regulations, as they are written, will have significant negative ramifications to not only special education students, but also to regular education students, and ultimately to all of society!!

Please, please read my testimony and the concerned letters from others. Children throughout the Commonwealth are dependent upon you!! Please do not pass the proposed regulations!

Sincerely,



Barbara T. D'Silva
215-699-0241

Attachments:

Testimony of September 21, 2000 before the State Board of Education
19 letters presented to the State Board of Education on September 21, 2000
3 letters received after the September 21st public hearing

Original: 2144

Penny K. Stroup
PO Box 261
Tyrone, PA 16686

Independent Regulatory Review Commission
14th Floor, 333 Market Street
Harrisburg, PA 17101

RECEIVED

2000 OCT 10 PM 2:13

INDEPENDENT REGULATORY
REVIEW COMMISSION



September 29, 2000

Dear Commissioners:

I am writing to you in response to the proposed regulations changes. These changes I feel would be very essential to many students in Special Education. By changing the 10-day rule of implementing the IEP to as soon as possible the school district could take as long as they want even years to begin to implement the IEP by stating that they were still trying. They could simply state that implementation is not yet possible.

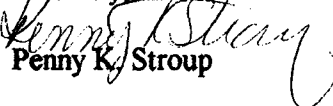
By changing classroom size and age regulation the school could possible have students in the same class that are 6 years and some that are 18 years old? This happens already and I feel that the problems that arise can and are very dangerous. Young adults (18 years old) in emotional support classrooms can be put with young children that are only 6 or 7 years old. Children without special needs are placed according to age and children in Special Education deserve the same consideration.

Inclusion is a very essential part of many students education. Through education many students receive education in a regular classroom with very little supports from the special education programs. These students prove that inclusion is a success, inclusion is necessary, and inclusion is the right approach to teaching our students.

There are several other proposed changes that upsets me and I feel are damaging to the special education programs in Pennsylvania. The current regulations have been put in place because of the need to insure an appropriate education to children in special education as well as the students in regular education. My son is in special education and I have struggled for many years trying to get my son the education that he needs and deserves. The current regulations have helped me in the struggle for my son. I cannot explain much an appropriate education affects the ability to maintain my son in the home. His education is vital to his ability to grow and develop into a productive member of our society.

I appreciate you time and consideration in this matter and please keep the regulations as they are currently.

Sincerely,


Penny K. Stroup