

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

IRRC Number:

2499

(1) Agency

State Board of Education

(2) I.D. Number (Governor's Office Use)

006-295

(3) Short Title

Chapter 4 Academic Standards and Assessment

(4) PA Code Cite

22 PA Code Chapter 4

(5) Agency Contacts & Telephone Numbers

Primary Contact: Jim Buckheit
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(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

Chapter 4 sets for requirements for instruction, high school graduation, strategic planning and assessment based upon the state academic standards for this Commonwealth's public schools.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Act of March 10, 1949, P.L. 30, No. 14, §§ 26-2603-B---2604-B, added by the Act of March 30, 1988, P.L 321, No. 43.

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Law, court order or regulation does not mandate these regulations. The enabling statute for the State Board of Education requires that it "adopt broad policies and principles, and establish standards governing the education program of the Commonwealth." (24 P.S. § 26-2603-B(a)).

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The regulations update, provide clarity and align these regulations with state and federal statutes, regulations, policies and practice.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

None

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

School boards, school administrators, teachers, parents and students will benefit from improved clarity provided in the revised regulation both from removal of outdated transition provisions and rewriting existing provisions. Students with disabilities will benefit from new provisions regarding participation in vocational education programs. Students enrolled in world language instruction will benefit from state standards that describe what students should know and be able to do through world language instruction.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No adverse effect is anticipated. These regulations clarify and maintain the existing requirements for public schools to provide instruction and assessment of student performance against rigorous state academic standards.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

501 School districts, 29 Intermediate Units, 82 Area Vocational-Technical Schools, 109 Charter Schools, 6,700 public school administrators, 141,000 public school teachers and support staff and 1.8 million students and their parents/guardians.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The State Board committee initiated outreach and communication with stakeholders by holding three roundtable meetings. Roundtable meetings were held on May 8, 2003 in Harrisburg, May 14, 2003 in Erie and May 28, 2003 in Mar Lin. Formal public hearings by the State Board committee on November 20, 2003; December 4, 2004 in Homestead and December 11, 2003 in Norristown. In addition to those who provided testimony at the hearings formal written testimony was submitted by ten individuals and organizations.

The committee held public meetings where stakeholders and interested parties could make public comment on the following dates: March 19, 2003; June 20, 2003; September 18, 2003; November 19, 2003; January 21, 2004; March 17, 2004; May 19, 2004; July 21, 2004, June 29, 2005 and May 16, 2007.

An interested parties list is maintained by the State Board and those interested in keeping informed about Chapter 4 were notified of planned formal Board action through mailings and a stakeholders list is notified via email.

The State Board also posted updated versions of the draft regulations on its web site to enable stakeholders to review the draft as it progressed through the revision process.

The Board published the proposed regulation in the Pennsylvania Bulletin on November 5, 2005 and provided a 30-day public comment period. Members of the public also were provided opportunities to provide comments during the public comment periods provided at Chapter 4 Committee, Council of Basic Education and State Board of Education meetings.

Regulatory Analysis Form

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

These regulations will not result in costs or savings to the regulated community since they largely implement, revise or clarify existing requirements. There may be minimal costs for school districts to align their curriculum for world language courses with the Department issued world language standards. Since districts periodically revise their curriculum as a matter of course, the addition of these standards should not result in any new costs to school districts.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

These regulations will not result in costs to local governments since they largely revise or clarify current requirements. Since these regulations will eliminate a yet to be implemented mandate that every student be provided instruction in a world language local school districts statewide could save up to \$114 million in additional staffing costs.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

These regulations will not result in either additional costs or savings to state government since they clarify current requirements.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	0	\$114 m	\$114 m	\$114 m	\$114 m	\$114 m
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	0	\$114 m	\$114 m	\$114 m	\$114 m	\$114 m
COSTS:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	0	0	0	0	0	0
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(20a) Explain how the cost estimates listed above were derived.

The State Board estimates school districts will save approximately \$114 million each year in staffing costs by not having to hire approximately 2,700 additional world language teachers that would be necessary if the existing regulations for world language instruction were implemented. This amount is derived from determining the number of students who already take two or more years of world language instruction, the number of teachers providing world language instruction and then determining, based on the current teacher-student ratio the number of teachers necessary to provide instruction to the remaining number of students. State average teacher salary/benefit costs was then multiplied by the number of additional teachers needed. This cost does not include classroom space, textbooks, instructional materials or professional development and associated personnel costs to school districts.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N.A.	0	0	0	0

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The Commonwealth currently provides more than \$8.9 billion to local schools, as part of the nearly \$19 billion invested in elementary and secondary education by taxpayers, to educate students and to provide them with the skills and knowledge necessary to succeed in the workplace, in postsecondary studies and as citizens. These proposed regulations are designed to ensure that students are educated to high standards, and through the use of State assessments, to ensure that the citizens of this Commonwealth have a means to measure the ability of schools to deliver on their promise.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Law or regulation can only establish the state policies outlined in these regulations. Therefore, alternatives were not considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Alternative regulatory schemes were not considered.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

The federal No Child Left Behind Act of 2001 requires that states establish rigorous academic standards and aligned state assessments in grades 3-8 and once at the high school level in reading and mathematics. States are also to establish standards for and begin assessing student knowledge in science beginning with the 2007-08 school year. These regulations require that students be assessed in writing which is not required by federal law. The State Board believes that writing is an essential skill in which all students should be proficient and therefore believes that it should continue to be assessed even though a writing assessment is not required by federal law.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Under the federal No Child Left Behind Act of 2001 all states are required to establish academic standards and to administer assessments of student proficiency against the standards in Reading, mathematics and science. These regulations meet and exceed these requirements. Other provisions provide this Commonwealth's school districts with flexibility to develop curriculum and instructional practices that will permit students to demonstrate proficiency in each of the ten areas for which state academic standards have been promulgated. These requirements are less prescriptive than those imposed in other states, largely in deference to Pennsylvania's long-standing tradition of strong local control, particularly over curriculum, instructional practices and graduation requirements. These requirements do not place the Commonwealth at a competitive disadvantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No. The State Board has already conducted extensive public outreach including 3 public roundtables, 3 public meeting and ten public committee meetings where discussions about the proposed and final regulations took place.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Revisions to Section 4.31 were added to clarify the rights of students with disabilities to enroll in vocational education programs and be provided appropriate services and accommodations.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will become effective upon final publication in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

The Board is currently reviewing sections of this regulation that address high school graduation requirements, strategic planning and HIV/AIDS and other life-threatening and communicable diseases.

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FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

INDEPENDENT REGULATORY
REVIEW COMMISSION

(Pursuant to Commonwealth Documents Law)

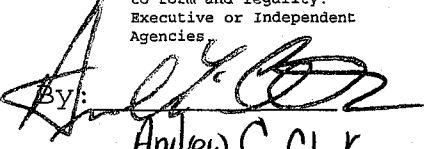
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By: _____
(Deputy Attorney General)

State Board of Education
(Agency)

By: 
Andrew C. Clark

DOCUMENT/FISCAL NOTE NO. #006-295

DATE OF ADOPTION: May 17, 2007

NOV 30 2007

DATE OF APPROVAL

DATE OF APPROVAL

BY: 

Deputy General Counsel
(~~Chief Counsel~~),
(~~Independent Agency~~)
(Strike inapplicable title)

TITLE:

(EXECUTIVE DIRECTOR, CHAIRMAN OR SECRETARY)

() Check if applicable
Copy not approved.

(-) Check if applicable.
No Attorney General approval
Or objection within 30 days
After submission.

FINAL REGULATION
COMMONWEALTH OF PENNSYLVANIA

22 PA. CODE, CH. 4
ACADEMIC STANDARDS AND ASSESSMENT

STATE BOARD OF EDUCATION

[22 PA. CODE CH. 4]

Academic Standards and Assessment

The State Board of Education (Board) amends Chapter 4 (relating to academic standards and assessment). Notice of proposed rulemaking was published at 35 Pa.B. 6107 (November 5, 2005) with an invitation to submit written comments.

Chapter 4 sets forth requirements for state academic standards, instruction, assessment, strategic planning, and high school graduation requirements in public schools. The overarching purpose of the final-form rulemaking is to align the regulations with State and Federal statutory and regulatory requirements, delete transitional provisions that are no longer needed and to clarify and refine existing Board policy on select issues.

Statutory Authority

The Board takes this action under section 2603-B of the Public School Code of 1949 (code) (24 P. S. § 26-2603-B) and other sections of the code.

Background

Chapter 4 sets forth requirements for state academic standards, state and local assessment systems, strategic planning, world language instruction, high school graduation requirements, HIV/AIDS and other life-threatening and communicable diseases, vocational-technical education and school profiles. The final-form rulemaking updates the regulations to align state assessment policies with those contained in Chapter 403.3 (relating to compliance with the No Child Left Behind Act of 2001), removes

transition provisions designed to smooth changes in state policy under the previous Chapter 5 regulations that were sunset when Chapter 4 was promulgated in January 1999, and clarifies and refines Board policy in a number of other areas.

Summary of Public Comments and Responses to Proposed Rulemaking

The proposed rulemaking was published in the *Pennsylvania Bulletin* on November 5, 2005 (35 Pa.B. 6107). The proposed rulemaking was also available on the Department's website and notice provided to the Board's stakeholder e-mail distribution list. The Board accepted formal written comments during a 30-day public comment period that began upon publication of the proposed rulemaking.

The Board received comments from the House Education Committee; Independent Regulatory Review Commission (IRRC); Education Law Center; Upper Adams School District; Central Columbia School District; Gettysburg Area School District; Littlestown Area School District; Fairfield Area School District; Colonial Intermediate Unit 20; Teresa A. Prato; a joint letter from the Chief School Administrators in Chester County; Lawrence E. Martin, Assistant Executive Director, Bucks County Intermediate Unit; Pennsylvania Association of School Administrators (PASA); Pennsylvania School Boards Association (PSBA); Senator Raphael Musto; Tom Viviano; Karen L. Hoffman; and a joint letter from state education organizations including: PSBA, PASA, Pennsylvania State Education Association, American Federation of Teachers-Pennsylvania, and Pennsylvania Association of Vocational Administrators. In addition, Harbor Creek School District provided comments that addressed several state education policy issues including a few regarding the proposed Chapter 4 regulations.

Following is a summary of the comments and the Board's response to the comments.

§ 4.3. Definitions.

Comment: IRRC and PASA shared concerns about the definitions of *prekindergarten* and *school entity*. They note that when taken together the two definitions will permit cyber charter schools to operate prekindergarten programs. They state cyber school programs would not be appropriate for young children. IRRC added that the definition of prekindergarten includes substantive provisions that are not enforceable. IRRC also expressed concern that, in the definition of *school entity*, the phrase *that this chapter applies to school entities only to the extent provided by law* is substantive and unnecessary. IRRC also stated that the definition of *world language* appears relevant only to § 4.25 and suggested it could be moved to that section. Also, the phrase *in this Commonwealth* is not needed. The Education Law Center suggested that the term *school entity* be used uniformly throughout the regulation.

Response: The Board deleted the substantive provisions from the definitions contained in § 4.3. Since November 2005, when the proposed Chapter 4 regulations were published, the Board in December 2006 promulgated final-form prekindergarten regulations, which include a new definition of the term prekindergarten. Therefore, the definition of the term prekindergarten contained in the proposed regulations is withdrawn. In response to the Education Law Center, the terms school entity, school district and area vocational technical school have different meanings and are used when appropriate in this regulation. Therefore, the term school entity is not always appropriate as suggested in the comments by the Education Law Center. As suggested by IRRC, the

definition of *world language* is revised and has been moved to § 4.25 (relating to languages).

§ 4.4. General policies.

Comment: PSBA suggests that it is unfair to schools that the Department counts students who are given a religious exemption from taking the PSSA under § 4.4(d) against a school's performance when it determines adequate yearly progress. PSBA does not oppose the religious exemption but urges the Board to request the Department to seek a change in policy from the federal Department of Education.

Response: The Board found that fewer than 500 of the nearly one million students who are required to take the PSSA each year are given exemptions under this provision. This is not a significant issue. However, the Board will urge the Department to explore ways to address this matter with the federal Department of Education.

§ 4.13. Strategic plans.

Comment: IRRC suggests the regulation should provide guidance as to when and where strategic plans must be filed. IRRC also expressed concern about the provision that makes the strategic plan an extension of the regulation and states this provision is not clear and is unnecessary. IRRC also states the requirement that the plan can only be changed by the strategic planning committee conflicts with the descriptions in existing subsections (d) and (e).

Comment: The Education Law Center suggests adding "and shall describe how students with disabilities shall be admitted to and supported in its programs" to subsection (b).

Comment: The Harbor Creek School District expressed concerns about the strategic planning committee being required to revise the strategic plan. The District believes this provision challenges the authority of the locally elected school board and the process by which members of the planning committee are selected. The District supports the inclusion of technical school and other certificates.

Comment: PASA expressed concerns the proposed regulation makes the plan more operational than strategic. It also believes the new requirements are unrealistic and burdensome. They require the plan to report in considerable detail what the school entity is doing to educate students rather than on what the entity anticipates doing. PASA also shared concerns about the proposed language that would make the strategic plan an extension of the regulation. PASA also expressed concerns about the requirement that the strategic planning committee approve all amendments to the plan. It also opposes the provision that holds commissioned officers accountable for implementation of the strategic plan.

Comment: PSBA believes the provision that requires strategic plans to be updated as necessary each year is redundant and should be deleted. PSBA also expressed concerns about the proposed regulation that would make the strategic plan an extension of the regulation and the strategic planning committee must approve all changes to the plan. They expressed concerns about the 16 elements required in a strategic plan, as it believes many of the provisions are similar and can be combined. PSBA also has concerns regarding the clarity of the requirement that school entities coordinate with other programs and about the membership requirements for strategic planning committees.

Response: The Board has withdrawn its proposed changes to § 4.13 and will consider updating the strategic planning requirements in the future. This includes issues raised by the Education Law Center. The Board did remove the transition provision contained in § 4.83 regarding the submission and effective dates of strategic plans. In order to fill the gap established by this deletion, the Board has inserted new language in subsections (a) and (b) of § 4.13 that requires the Department to notify each school entity by letter at least one year in advance of the due date for submission of the plan to the Department. Revisions were also made to subsections (c) and (e) to clarify which school entities must post the strategic plan on the entity web site at least 28 days in advance of the board meeting for public review.

§ 4.21. Elementary education: primary and intermediate levels.

Comment: IRRC questioned provisions in subsection(e)(6) and (8), asking what are basic movement skills and concepts and principles and strategies of movement. Also, they ask, how do they differ?

Response: Both terms are used in the academic standards for Health, Safety and Physical Fitness, which was promulgated through regulation as appendix D to Chapter 4 in January 2003. The term *principles and strategies of movement* is contained in the title of standard 10.5. The term *basic movement skills and concepts* is used in standard 10.5.3.A. and 10.5.6.A. The Board believes consistent use of these terms of art in the standards and regulations is necessary and appropriate.

§ 4.24. High school graduation requirements.

Comment: PSBA supports the existing language but suggests deleting the transition provisions that are past their effective date.

Response: The Board deleted the transition provisions.

§ 4.25. Languages.

Comment: The House Education Committee recommended the Board consider adding a requirement that would require demonstration of proficiency in a world language by all students. The Committee also suggested the Board consider whether students with disabilities should be required to take a language. Senator Musto questioned whether the requirement that schools offer instruction in at least two world languages, while not requiring that students take world language courses, would create impossible personnel decisions for school districts, as they must have teachers available to teach courses for which students may not enroll. Senator Musto also questioned whether data proves there is a shortage of world language teachers and questions how the Board will resolve the conflict with the Department's Project 720 initiative, which encourages world language instruction. Finally, Senator Musto questioned how the Board's position can be rectified with the Administration's insistence that the Commonwealth produce students and workers prepared to join the global economy. PSBA expressed support of the Board position that instruction in two languages be provided with no mandate for students to take such courses.

Response: Since 1966, Board regulations have required school districts to offer world language instruction in at least two languages, with one offered in a four-year and the other a two-year sequence. Chapter 4, as currently constructed, would make proficiency in a world language mandatory for every student once the Board issues academic standards for world languages. The Board has reviewed and debated this issue for nearly a decade. The Board held a forum on world languages in 2002 to fully explore

the advantages and challenges that such a mandate would present. The Board highly values the study of world languages and strongly encourages schools to offer a comprehensive program of world language study and students to enroll in world language study. Nearly one-half of the Commonwealth's secondary students are enrolled in world language instruction. Nearly 76 percent of college bound students take two or more years of world language instruction.

However, two serious barriers exist over which the Board has no authority. They are the issues of cost and supply of qualified world language teachers. The Board calculated that a world language mandate would require school entities to hire at least an additional 2,700 world language teachers at an additional annual cost to taxpayers of at least \$114.5 million. However, even if funding were available a ready supply of highly qualified and certified teachers is not. On average, approximately 300 world language teachers are certified each year by the Department. This includes graduates of Pennsylvania's teacher preparation programs, teachers transferring from out-of-state and through the issuance of intern certificates. World language teachers must be "highly qualified" under the federal No Child Left Behind Act of 2001 meaning they must have a bachelor's degree in the language they teach or pass a rigorous state exam. Given the large number of students already participating in world language instruction together with the challenges of cost and limited teacher supply necessary to provide instruction if mandated, the Board has determined it best to maintain the current requirements with the added provision that the Department establish standards for world language instruction.

Comment: IRRC suggests the regulation should include a cross reference to the world language standards, or identify where the world language standards issued by the Department can be found.

Response: The Board added language that requires the Department to post the standards for world languages on the Department's web site.

§ 4.29. HIV/AIDS and other life-threatening and communicable diseases.

Comment: IRRC stated the Board's recommended use by school entities of guidelines from the Centers for Disease Control (CDC) is not enforceable. IRRC suggested the Board should either make this a requirement or delete it.

Response: The Board has withdrawn its proposed revisions to this section. The current regulation will remain in force while the Board continues to review this issue.

§ 4.31. Vocational-technical education.

Comment: Education Law Center – In subsection (a) the Education Law Center suggests adding language that students with disabilities are entitled to services and accommodations necessary to help them succeed. It also suggests adding that accommodations should be provided to students needing them when taking occupational competency assessments. The Education Law Center also suggests adding language that would prohibit vocational programs from using industry skill standards as the basis for excluding a student with a disability from enrollment on the grounds the student cannot meet the standards if the student can benefit from enrollment in the program with reasonable supports.

Response: The Board revised § 4.31(a) to address accommodation issues raised by the Education Law Center with regard to that section. However, the Board does not

believe it is appropriate to enroll students in vocational programs in which a student, even with appropriate support, will not be able to meet industry standards or qualify for industry certification in those occupations where such certification is a vital consideration for employment. Enrolling students who do not have the ability to perform the essential functions necessary to obtain national certification, even with reasonable accommodation, is inappropriate and unfair to the students, providing them with false expectations.

4.33. Advisory committees.

Comment: Education Law Center – The Education Law Center recommends that subsection (c) include language that at least one member of each occupational advisory committee include a Special Education Director from one of the school entities served by the AVTS. It also suggests adding a requirement that each committee address how the occupational program can be adapted to meet the needs of students with disabilities.

Response: The Board believes it should not specify the individual membership requirements of the occupational advisory committees as suggested. In addition, even if a Special Education Director were added to the committee, he would not necessarily have the knowledge and skills needed to determine how best to adapt the program to meet the needs of students with disabilities.

4.51. State assessment system.

Comment: PSBA – PSBA recommends the specified grade levels be revised to reflect actual current practice.

Comment: IRRC – IRRC referred to a commentator who suggests the proposed grade levels specified in subsections (b) and (d) are inconsistent with actual practice.

IRRC recommends the Board should review the grade levels and update them as necessary.

Response: The Board updated the grade levels to reflect actual practice.

4.52. Local assessment system.

The Board received more comments regarding this section than any other. Based on these comments, it is clear to the Board that many schools are ignoring the current regulation regarding state high school graduation requirements and are strongly opposed to its enforcement. The current regulation contained in § 4.24 requires all students, with the exception of certain students with disabilities, as a condition of graduating, to demonstrate proficiency in reading, writing and mathematics on either the PSSA or local assessments aligned with state academic standards at the proficient level established for the PSSA. This means the level of rigor used on local assessments must be equivalent to that established for the PSSA. Under this policy, if a district chooses to use its local assessment, the burden is already on the local school district to align its assessment with the state standards and PSSA proficiency levels. The Board believes that far too many students continue to be awarded high school diplomas without possessing essential reading, writing and mathematics skills necessary for entry level employment or post-secondary enrollment without remediation. This practice shortchanges students and the economic future of the Commonwealth.

Following the summary of comments below, the Board provides a statement regarding the proposed regulation and state high school graduation requirements.

Comments:

House Education Committee – The Committee poses a number of questions regarding: allowing the Secretary to require proficiency on the PSSA as a graduation requirement where there is a discrepancy between graduation rates and proficiency rates on the PSSA; validity of the correlation between local assessments and state assessments, as local assessments use a variety of measures in contrast to a single test in three subject areas; discrepancy threshold to be used by the Secretary to initiate action; capacity of the Department of Education to provide assistance to school districts make their local assessments comparable to the PSSA; and, threshold as to when a district would be permitted to return to use of their local assessment. The Committee also expresses concerns about the intrusion on Pennsylvania’s historic principle of local board control over graduation requirements and concern over the fiscal impact and capacity of Department of Education to fulfill its obligations under the regulation. The Committee suggests that the PSSA might not be the best means of determining proficiency of state standards.

IRRC – IRRC claims the description in the Preamble considerably understates the change in requirements. IRRC states that it finds the proposed regulation to add significant changes in requirements and enforcement provisions to local assessment systems and claims the proposed rulemaking does not contain sufficient information to fully evaluate its requirements and impact. IRRC claims the regulation imposes new requirements for school entities to monitor, analyze and report on the progress of their students. IRRC questions whether the regulation would make the PSSA essentially a high school exit exam, whether the PSSA is a valid indicator of proficiency, particularly in special education and English language learner programs. IRRC questions how the

Board will evaluate the PSSA and why is it a valid standard. IRRC also raised several issues regarding clarity or the proposed regulation.

Joint Letter from State Education Groups – The groups oppose the proposed changes because they claim the language is vague, subjective, punitive and counterproductive. They claim this proposal is one step away from establishing the PSSA as Pennsylvania's mandatory high school exit exam. The groups hold that graduation requirements should remain a local determination; the alignment between local assessments and the academic standards should be the key issue, rather than alignment of local assessments with the PSSA; sole use of PSSA provides a single snapshot of a student's knowledge of the standards, and the use of a variety of assessments provides a holistic approach that more accurately measures student's abilities. The groups suggest a conflict with § 4.4 that permits a parent to have their child excused from taking the PSSA and questions how the comparability between the PSSA and local assessments will be determined, particularly if multiple assessments are used. The groups question what percentage of students will be used to determine when a significant disparity exists; question why it is assumed that the PSSA is the only correct way to measure achievement of the standards; express concern that significant numbers of African American students with disabilities and English Language Learners would not be able to graduate; and state concerns about the timelines for reporting by school entities and a lack of an appeals process. The groups question why there is no provision for the Department of Education to provide technical assistance to school entities to develop local assessments that meets state requirements; and they share concerns about the withholding of state funds by the Secretary of Education.

Central Columbia School District – Supports the proposed regulations, with exception of changes in § 4.52(c), and believes that the PSSA, as a one-time snapshot assessment, is less valid than local assessments given over the course of a student’s high school enrollment.

Harbor Creek School District – The District challenges the premise of the regulation that students who do not pass the PSSA can always be attributed to a softer local assessment. The District recommends removing the penalty, and instead the Department should use an auditing process that would determine whether the local assessments are aligned with the PSSA.

Gettysburg Area School District, Littlestown Area School District, Conewago Valley School District, Fairfield Area School District and Upper Adams School District – The five school districts submitted identical letters. The Districts state the use of single assessments to determine success of the entire secondary education is a disservice to students who have varying needs including English language learners and students with disabilities. It adds the use of a single assessment is contrary to treating students as individuals and discourages students from completing school. The Districts suggest allowing school districts to continue to control how best to educate all students in ways that meets their needs and utilizes the high quality methods of certifying that students have met the requirements for graduation established by the local school board.

Colonial Intermediate Unit 20 – The IU claims NCLB requirements make the proposed regulations unnecessary, as NCLB imposes serious sanctions for not meeting adequate yearly progress targets. It argues that use of the PSSA as a graduation test ignores the additional year of instruction and knowledge and skills gained in 12th grade. It

claims that the proposal is contrary to assessment requirements in Chapter 4 that provide for multiple assessment strategies. The Intermediate Unit raises concerns about the impact on students with disabilities and English language learners and about the fairness on schools with high transitory populations. It also comments that the proposed regulation places a burden on school districts to prove that local assessments are comparable to the PSSA, which presents an unfunded mandate on school districts.

Teresa A. Prato, teacher at Bucks County Technical High School – Ms. Prato raises concerns about the validity of the PSSA, its use as a graduation test and limitations as a single assessment tool.

Chief School Administrators, Chester County – The Chester County administrators share concerns about the validity of the PSSA as a graduation test; suggests that multiple and varied measures should be used to assess student learning; a need for timely feedback and that the length of time needed to score and report PSSA results; and, suggests that standardized tests historically discriminate against poor and minority children. The school administrators also request the Department of Education to provide training, technical assistance and support to develop valid, reliable items for local assessments.

Lawrence E. Martin, Bucks County Intermediate Unit – Mr. Martin claims that the PSSA was designed to compare schools, not to provide estimates of proficiency for individual students. He also claims that the PSSA is more like a norm referenced, rather than criterion referenced assessment. He believes that the proposal dishonors the hard work being done in Pennsylvania's high schools and claims that the policy would result

in unintended consequences, including increased dropout rates, teaching to the test, and reduction in use of authentic assessment.

PASA – PASA shares its concern that the regulation substantially changes the purpose of the PSSA and the consequences of performance on it from a high-stakes accountability system for schools to a high stakes test for individual students. It suggests that the PSSA was not validated as a high school exit exam and the cut scores were not set for this purpose. It also shares a concerns that the PSSA is not a fair or accurate measure of some students' knowledge and skills, particularly those who have disabilities and English language learners. PASA believes that the regulation would push school entities to use PSSA proficiency as the only measure of proficiency. It believes that the regulation would provide the Secretary with too much unguided discretion and that it does not address how a school entity found out of compliance can return to or remain in compliance.

PSBA – As reflected in the joint letter submitted with other state education organizations, PSBA urges the Board to delete the proposed revisions to paragraphs (2), (3) and (4).

Senator Musto – The legislator expresses concerns whether data supports the use of the PSSA as an evaluation tool and predictor of student success which would justify its use for all purposes assigned to it to the exclusion of local assessment tools.

Tom Viviano – Expresses concerns about the impact of the proposed regulation on special needs students. Mr. Viviano suggests it would be more appropriate to measure the rate of improvement combined with industry related exams taken at completion of

technical education. Mr. Viviano expresses a fear that students who otherwise would not dropout will now be put in a difficult position given the proposed requirements.

Karen L. Hoffman – Shares concerns about proposed use of proficiency on the PSSA as requirement for high school graduation.

Response: The Board has a long history of establishing state requirements for high school graduation. For example, in 1963 the Board required students to successfully complete 13 credit units of study in grades 10 – 12 in order to graduate. Of the 13 credits, at least three had to be in English, one in mathematics, one in science, two in social studies and one in health and physical education. One credit or course equaled a minimum of 120 hours of classroom instruction. Over the next three decades the Board raised these requirements to the level of requiring students to complete 21 credits in grades 9 – 12 effective with the class of 1989.

In 1993, the Board eliminated academic credits as a state requirement for high school graduation. It replaced completion of specified coursework or seat time with 56 student learning outcomes. The student learning outcomes described what students were to know and be able to do and eliminated seat time as a proxy measure of student learning. The regulations charged school districts with developing assessment systems that would determine whether students met the student learning outcomes. The regulations also established a state assessment system designed to assess the performance of each public school.

In 1999, the Board continued its movement away from using seat time as a proxy measurement of student achievement by issuing its Chapter 4 regulations, the regulations now in effect. Chapter 4 replaced the 56 student learning outcomes with 13 sets of state

academic standards, which provide a much clearer and detailed description of what students were expected to know and be able to do. Another significant revision contained in Chapter 4 involved the Pennsylvania System of School Assessment (PSSA). Chapter 4 directed the PSSA to be aligned with the state academic standards and to be redesigned so it measured both school and individual student achievement of the state academic standards.

Chapter 4 also made significant changes to the state high school graduation requirements. Section 4.24 requires school districts to include in their graduation policies:

- Course completion and grades;
- Completion of a culminating project; and
- Results of local assessments aligned with the academic standards.

Also, beginning in 2002-03, the Board required students to demonstrate proficiency in reading, writing and mathematics on either the PSSA or local assessment aligned with state academic standards and state assessment at the proficient level or above to graduate.

The Board believes its intent was clear in that, beginning in 2002-03, students must demonstrate proficiency in reading, writing and math based on the state academic standards and at the proficiency levels established for the PSSA. After several years' administration of the PSSA, analysis of data, visits to schools and discussions with school board members, school administrators, teachers, parents and students, it is clear that many school districts are ignoring the requirement that the local assessments be aligned with state standards and the proficiency levels be aligned to that of the PSSA. The Board, through the proposed changes to Chapter 4, attempted to clarify the existing

policy regarding the alignment of local assessments with state standards and proficiency levels.

Many comments received by the Board raised questions about the validity of the PSSA. In 2004, the Board released the results of an independent validity study that demonstrated the PSSA to be a fair, reliable, unbiased and rigorous assessment that produces comparable results to nationally administered assessments, including the Scholastic Aptitude Test, Metropolitan Achievement Test, CTB Terra Nova, Stanford Achievement Test, New Standards Reference Exam, California Achievement Test and Northwest Evaluation Association assessment. The Board also conducted a supplemental study that compared the PSSA and the freshman college placement exams from three large Pennsylvania post-secondary institutions. Again the PSSA proved itself against the three first-year college placement tests. The results show the PSSA to be as good a predictor of first year college performance as the Scholastic Aptitude Test and the three university placement tests. These reports are available on the Board web pages on the Department of Education web site (www.pde.state.pa.us).

In September 2005, Governor Rendell appointed members to a Commission on College and Career Success. With the establishment of the Commission, the Board deferred further action on its proposed Chapter 4 regulations pending completion of the work by the Commission. The Commission was charged to:

- Define “college and career ready” in mathematics, English and science.
- Examine and make specific recommendations for better alignment of academic standards and assessments across the secondary and post-secondary educational sectors as well as industry in Pennsylvania.

- Encourage local school districts to adopt a core high school curriculum for all Pennsylvania students.
- Present to the Governor a legislative and regulatory package that would address the needs outlined in their findings.
- Investigate policies and programs that ensure a higher number of prepared students enter and remain in our colleges and universities.

The Commission provided its report to the Governor in December 2006. Like the Board, the Commission expressed concerns about the performance of high schools. To quote from the Commission's report:

[I]n Pennsylvania, as in other states, increased standards have not yielded consistent results at the high school level. Student achievement has clearly improved at the elementary and middle-school level; but these improvements have not translated into across-the-board increases in high school performance. Approximately one quarter of our students do not graduate from high school on time; and of those that do, less than half enroll in college upon graduation. Only 37% make it to their sophomore year and less than one-third graduate from college on time. In short, Pennsylvania's educational pipeline is leaking with no low skill jobs paying reasonable wage to catch those students who do not make it through.

Given the findings and recommendations of the Commission, the Board has decided to withdraw its proposed changes to § 4.52(c).

The Board will address high school graduation requirements in a separate regulatory package to be developed and submitted to public review and comment in the near future.

4.61. School profiles.

Comment: IRRC – IRRC referred to the vague reference to federal or state law and suggested that citations to the applicable laws should be added.

Response: A reference to the state statutory requirement is added. The state statute incorporates the federal requirements.

General comments:

Comment: PSBA raises concerns about inconsistencies between this draft and proposed early childhood regulations, including the definition of prekindergarten, elementary education programs include prekindergarten, strategic planning requirements for parent and community involvement and composition of strategic planning committee.

Response: The prekindergarten regulations were promulgated as final regulations in December 2006. Wherever inconsistencies between the two sets of proposed regulations exist, the Board is retaining the language used in the prekindergarten regulations.

Fiscal Impact and Paperwork Requirements

Because this final-form rulemaking largely reflects changes in Federal and State statutes and regulations and current policies and practice, costs associated with compliance with the final-form rulemaking should be negligible. The final-form rulemaking is aligned with current statutory provisions and Department practice.

The elimination of the mandate that every student be proficient in the yet to be promulgated world language academic standards will save local taxpayers more than \$114 million in staffing costs. It will also save the additional costs of recruitment, training and support of new teachers and for additional classroom space, instructional materials, language laboratory expenses and associated instructional costs. School entities will need to align world language instruction with Department issued world language standards. This can be done as part of their regular process of periodic

curriculum review so there should not be any additional costs associated with implementation of this requirement.

Effective Date

The final-form rulemaking is effective upon publication in the *Pennsylvania Bulletin*.

Sunset Date

In accordance with its policy and practice, the Board will review the effectiveness of Chapter 4 after 4 years. Therefore, no sunset date is necessary.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 26, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 6107, to IRRC and the Chairpersons of the House and Senate Committees on Education for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on _____, the final-form rulemaking was approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, and approved the final-form rulemaking.

Contact Person

The official responsible for information on this final-form rulemaking is Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-3787 or TDD (717) 787-7367.

Findings

The Board finds that:

(1) Public notice of the intention to adopt this final-form rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) The final-form rulemaking is necessary and appropriate for the administration of the code.

Order

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 22 Pa. Code Chapter 4, are amended by amending §§ 4.3, 4.4, 4.11, 4.12, 4.13, 4.21, 4.22, 4.23, 4.24, 4.25, 4.27, 4.29, 4.31, 4.33, 4.51, 4.52, 4.61, 4.81, 4.82, 4.83 to read as set forth at 35 Pa.B. 6107, and by amending §§ 4.3, 4.4, 4.13, 4.21, 4.23, 4.25, 4.29, 4.31, 4.51, 4.52, and 4.61 to read as set forth in Annex A.

(b) The Executive Director will submit this order, 35 Pa.B. 6107 and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Executive Director of the Board shall certify this order, 35 Pa.B. 6107 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order is effective upon final publication in the *Pennsylvania Bulletin*.

JIM BUCKHEIT,
Executive Director

Comments Submitted to
State Board of Education
22 PA Code Chapter 4
Academic Standards and Assessments
Regulation 006-295

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Annex A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

Subchapter A. MISCELLANEOUS PROVISIONS

CHAPTER 4. ACADEMIC STANDARDS AND ASSESSMENT
GENERAL PROVISIONS

§ 4.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Assessment—A valid and reliable measurement of student performance on a set of academic standards in a subject area **that captures student understanding of the set as a whole and the central concepts, knowledge and skills of each content area.**

Curriculum—A series of planned instruction **aligned with the academic standards in each subject** that is coordinated and articulated and implemented in a manner designed to result in the achievement **at the proficient level** by all students [of **specific knowledge and skills and the application of this knowledge**].

Individuals with Disabilities Education Act—20 U.S.C.A. §§ 1400—148[5]2.

PSSA—Pennsylvania System of School Assessment.

Planned instruction—Instruction offered by a [school district or AVTS] school entity based upon a written plan to enable students to achieve the academic standards under § 4.12 (relating to academic standards) and additional academic standards determined in strategic plans under § 4.13 (relating to strategic plans).

Prekindergarten—

~~(i) A program operated by a school entity or under contract from a school entity that is open to children up to 2 years prior to the school entity's entry age for kindergarten.~~

~~(ii) The program shall provide a comprehensive program appropriate for the age, developmental level and individual needs of each child, based on how young children develop and learn, and include instruction to support each child's development in the following areas:~~

~~(A) Approaches to learning.~~

~~(B) Creative expression.~~

~~(C) Language and literacy.~~

~~(D) Math, logic and science.~~

~~(E) Social personal development.~~

~~(F) Physical development and health.~~

School entity—A local public education provider (for example, public school district, charter school, cyber charter school, AVTS or intermediate unit); provided, that this chapter applies to school entities only to the extent permitted by law.

World language—The study of the language, cultures, traditions and histories of different communities of people who communicate in languages other than English. In this Commonwealth, American sign language is a world language.

§ 4.4. General policies.

(a) It is the policy of the Board that the local curriculum be designed by school [districts (including charter schools) and AVTSs] **entities** to achieve the academic standards under § 4.12 (relating to academic standards) and additional academic standards designated in strategic plans under § 4.13 (relating to strategic plans).

(b) It is the policy of the Board that local school [districts (including charter schools) and AVTSs] **entities** have the greatest possible flexibility in curriculum planning consistent with providing quality education and in compliance with the School Code, including requirements for courses to be taught (24 P.S. §§ 15-1501 and 16-1605)[,]; subjects to be taught in the English language (24 P.S. § 15-1511)[,]; courses adapted to the age, development and needs of the pupils (24 P.S. § 15-1512)[,]; minimum school year of 180 days and minimum of 900 hours of instruction at the elementary level and 990 hours of instruction at the secondary level (24 P.S. §§ 15-1501 and 15-1504)[,];

employment of sufficient numbers of qualified professional **[employees] employees** (24 P.S. § 11-1106) and superintendents to enforce the curriculum requirements of State law (24 P.S. § 10-1005)[,]; and this part.

(d) School **[districts (including charter schools), AVTSs and intermediate units] entities** shall adopt policies to assure that parents or guardians have the following:

(3) The right to have their children excused from specific instruction [which] that conflicts with their religious beliefs, upon receipt by the school [district (including charter schools), AVTS or intermediate unit] entity of a written request from the parents or guardians.

(4) The right of the parent or guardian to review the State assessments in the school entity, at least 2 weeks prior to their administration, during convenient hours for parents and guardians. Necessary security requirements to maintain the validity of the assessment shall be taken in accordance with the State assessment administration instructions.

(5) If upon inspection of State assessments parents or guardians find the assessments in conflict with their religious belief and wish their student be excused from the assessment, the right of the parents or guardians will not be denied upon written

request to the applicable school district superintendent, **CHARTER SCHOOL CHIEF EXECUTIVE OFFICER** or AVTS director.

~~[(5)]~~ **(6)** Opportunity for involvement in the strategic planning process under § 4.13.

~~[(6)]~~ **(7)** The right to have their children excluded from research studies or surveys conducted by entities other than **[the] a school [district (including charter schools), AVTS or intermediate unit] entity** unless prior written consent has been obtained.

[(7) The right of the parent or guardian to review the State assessments in the school district 2 weeks prior to their administration during convenient hours for parents and guardians. All necessary security requirements to maintain the validity of the assessment shall be taken in accordance with the State assessment administration instructions.]

ACADEMIC STANDARDS AND PLANNING

§ 4.11. Purpose of public education.

(g) Public schools provide instruction throughout the curriculum so that students may develop knowledge and skills in the following areas:

[(10) World languages.]

§ 4.12. Academic standards.

(a) School [districts (including charter schools) or AVTSs] entities may develop, expand or improve existing academic standards in the following content areas [until the Board adopts standards under subsection (g) and rescinds the description of the corresponding content areas]:

(8) [*World languages. Ability to communicate in a language other than English, including the ability to understand and interpret written and spoken language on a variety of topics and to develop knowledge and understanding of other cultures.*] *Reading, writing, speaking and listening.*

(i) *Reading. The application of phonemic awareness, phonics and word study, vocabulary, fluency and text comprehension in reading critically across subject areas; the interpretation and analysis of literary expression with analysis of the origins and structures of the English language; and learning how to search a variety of texts to conduct research.*

(ii) Writing. Narrative, informational and persuasive formal writing for an audience, including spelling and editing skills; and informal writing to capture and organize information for individual use.

(iii) Speaking and listening. Participation in conversation and formal speaking presentations.

(9) Mathematics. The understanding of fundamental ideas and the development of proficient mathematical skills in numbers, computation, measurement, statistics and data analysis, probability and predictions, algebra and functions, geometry, trigonometry and concepts of calculus. Using this content, students will learn to think, reason and communicate mathematically.

(b) In designing educational programs, school [districts (including charter schools) and AVTSS] entities shall provide for the attainment of the academic standards under subsections (a) and (c) and any additional academic standards [which] that they describe in their strategic plans under § 4.13(c) (relating to strategic plans). Attaining the academic standards in this section requires students to demonstrate the acquisition and application of knowledge.

(c) School [districts (including charter schools) and AVTSS] entities shall prepare students to attain academic standards in mathematics, reading, writing, speaking and listening as contained in Appendix A and incorporated here by reference and

additional standards as may be adopted by the Board and promulgated as amendments to this chapter.

(d) A school [**district's (including charter schools) or AVTS's**] **entity's** curriculum shall be designed to provide students with **planned** instruction needed to attain these academic standards.

(e) School [**districts (including charter schools) and AVTSs**] **entities** shall apply academic standards for students in all areas described under subsections (a) and (c). The local assessment plan under § 4.52 (relating to local assessment system) shall include a description of how the academic standards will be measured and how information from the assessments is used to assist students having difficulty meeting the academic standards.

(f) School [**districts (including charter schools) and AVTSs**] **entities** shall assess the attainment of academic standards developed under subsections (a) and (c) and any other academic standards [**which**] **that** they develop and describe in their strategic plans under § 4.52(c) for purposes of high school graduation and strategies for assisting students to attain them. Plans for assessment developed by school [**districts (including charter schools) and AVTSs will**] **entities must** take into account that academic standards in subsections (a) and (c) may be attained by students in various ways and shall be assessed in various ways. Children with disabilities may attain the academic standards by completion of their Individualized Education Programs under the Individuals with Disabilities Education Act and this part.

(g) In **[developing] planning any revision of the** academic standards in subsection (a) content areas, the Secretary will consult with educators, business and community leaders and parents. **[Academic standards in the following content areas will be developed by the Secretary and presented to the Board no later than the following schedule:**

April, 1999	Science and Technology, Environment and Ecology, Health Safety and Physical Education, Civics and Government
June, 1999	Arts and Humanities
October, 1999	Family and Consumer Sciences, Economics, Geography
September, 2000	History, Career Education and Work, World Languages]

(h) School **[districts (including charter schools) and AVTSs] entities** are responsible under subsections (a), (c)[,] **and** (g), and § 4.13(c)(5) for assessing individual student attainment of academic standards and for assisting those students having difficulty attaining them. Upon request by a school **[district (including charter schools) or AVTS] entity**, the Department will provide the requestor with technical assistance in the development of academic standards and assessments that are sufficient to assure that students are making progress toward the attainment of standards required for high school graduation under subsection (f) and those identified in the strategic plan under § 4.13(c)(3).

§ 4.13. Strategic plans.

(a) Every school district (including a charter [schools] school) shall develop and file with the Department a strategic plan once every 6 years ~~{and};~~ **AND** review that plan for revision at the mid-point and update the plan as necessary each year according to an implementation schedule developed by the Department [under § 4.83 (relating to implementation schedule)]. **THE DEPARTMENT SHALL NOTIFY EACH SCHOOL DISTRICT, BY LETTER, OF THE DUE DATE FOR SUBMISSION OF THE SCHOOL DISTRICT'S PLAN TO THE DEPARTMENT AT LEAST ONE CALENDAR YEAR PRIOR TO ITS DUE DATE.** A school district plan shall incorporate appropriate components of the plan submitted under subsection (b) by an AVTS in which the district participates. In the development of a strategic plan, a school district (including a charter [schools] school) will, upon request, receive technical assistance from the Department. The plan shall be developed by a schedule to be determined by the Department.

(b) Every AVTS, in conjunction with and with the approval of the majority of its participating school districts, shall develop and file with the Department a strategic plan once every 6 years ~~{and};~~ **AND** review that plan at the mid-point and update the plan each year according to an implementation schedule developed by the Department [under § 4.83]. **THE DEPARTMENT SHALL NOTIFY EACH AVTS, BY**

LETTER, OF THE DUE DATE FOR SUBMISSION OF THE AVTS'S PLAN TO THE DEPARTMENT AT LEAST ONE CALENDAR YEAR PRIOR TO ITS DUE DATE. The strategic plan shall incorporate appropriate components of the strategic plan submitted under subsection (a) by participating districts. In the development of the strategic plan, an AVTS will, upon request, receive technical assistance from the Department.

(c) The strategic plan shall be based upon an analysis of internal and external needs, leading to the specifications of priorities for action and action plans. ~~The analysis of needs and the specifications of priorities shall address student achievement; the school entity's core purpose; the quality of teaching and learning; the quality of leadership; the use of infrastructure; and, continuous professional learning and education.~~ The requirement in subsections (a) and (b) to develop plans every 6 years and revisions every 3 years does not limit a school {district's (including charter schools) or AVTS's} entity's ability to conduct a continuous strategic planning process. ~~Each plan, as received and filed by the Department, becomes an extension of this chapter uniquely adapted to each school entity and can only be changed by the strategic planning committee approved by the local school board.~~ The plan shall include the following components in addition to others the school {district (including charter schools) or AVTS} entity determines to include:

(1) ~~{~~A mission statement.

(2) A listing of the school district's (including charter schools) or AVTS's educational and organizational goals as they relate to student achievement and high school graduation requirements.

(3) A description of academic standards for student achievement which shall be consistent with those under § 4.12 (relating to academic standards).

(4) ~~The planned instruction to be offered and the instructional and assessment practices to be used to strive for the academic goals and attain academic standards under paragraph (3) and the high school graduation requirements under § 4.24 (relating to high school graduation requirements).~~

(5) An assessment plan under § 4.52 (relating to local assessment system) to determine the degree to which students are achieving academic standards under paragraph (3) including descriptions of methods and measures used to determine achievement, how information from the assessments shall be used to assist students who have not demonstrated attainment of the academic standards at a proficient level or higher and how information from the assessments shall be made available to the public.

(6) A plan for improving students' achievement, including specific, measurable goals for student growth and plans (including those listed in this section) that are designed to attain students' achievement goals. Achievement goals

shall demonstrate a connection to the academic standards under § 4.12 including but not limited to annual improvement goals for student scores on State and local assessments.

(7) The professional development plan under section 1205.1 of the School Code (24 P.S. § 12-1205.1) and § 49.17 (relating to continuing professional development) and the induction plan under § 49.16 (relating to approval of induction plans).

(8) A description of the school district's (including charter schools) or AVTS's organization and organizational goals and their relationship to differing student needs within the school district's (including charter schools) or AVTS's goals under paragraph (2) and the attainment of academic standards under paragraph (3).

(9) A description of the professional personnel, school library, classroom and other resources the school district (including charter schools) or AVTS plans to devote to the attainment of academic standards.

(10) A brief description of the process used to develop the strategic plan, including a list of persons involved in its development.

(11) A plan for additional instructional opportunities for students not achieving at the proficient level including identification procedures, alternate

instructional strategies, monitoring of assessment procedures and opportunities for extended learning time.}

(1) Core purpose. A summary of the school entity's mission statement, educational vision and shared values.

(2) Results for students. A listing of the school entity's educational and organizational goals as they relate to student achievement including high school graduation requirements and for having students meet or exceed proficiency levels established for State academic standards in § 4.12 (relating to academic standards).

(3) Academic standards. A description of academic standards for student achievement, which must be consistent with those under § 4.12.

(4) Measurable annual improvement targets. A plan for improving students' achievement, including specific, measurable goals for student growth and plans (including those listed in this section) that are designed to attain students' achievement goals. Achievement goals shall demonstrate a connection to the academic standards under § 4.12, including, but not limited to, annual improvement goals for student scores on State and local assessments.

(5) Curriculum, instruction and instructional materials. A plan for providing all students access to a rigorous education program, including: curriculum that is aligned to the academic standards; the planned instruction to be offered and the instructional practices and instructional materials to be used to strive for the

academic goals and attain academic standards under paragraph (3) and the high school graduation requirements under § 4.24 (relating to high school graduation requirements).

(6) Assessments and public reporting. An assessment plan that describes the local assessment system as required under § 4.52 (relating to local assessment system), including methods and measures used to determine the degree to which students are achieving academic standards under paragraph (3). The plan must include descriptions of methods and measures used to determine achievement; how information from the assessments shall be used to assist students who have not demonstrated attainment of the academic standards at a proficient level or higher; how all students as well as significant student subgroups are achieving as compared to the standards and annual improvement targets; and how information from the assessments shall be made available to the public and the parents or guardians of each student. This plan must address how assessment data, including value-added assessment data provided under § 403.3(d)(1)(iii) (relating to assessments), is shared with and used by district level administrators, school administrators and professional educators to change instructional practice in order to address the learning needs of students.

(7) Targeted assistance for struggling students. A plan for additional instructional opportunities for students not achieving at the proficient level, including identification procedures, alternative instructional strategies, monitoring of assessment procedures and opportunities for extended learning time (including

tutoring). This plan must describe how grade-level learning plans for students who have not achieved proficiency in reading and mathematics during their primary grades (K-3) under § 4.21(j) (relating to elementary education: primary and intermediate levels) have been implemented and specify the instructional opportunities for students who have not achieved proficiency in reading and mathematics by the end of grade 5 under § 4.21(k).

(8) Qualified, effective teachers and capable instructional leaders. A description of the school entity's goals, strategies and performance measures regarding provision of teachers and school leaders designed to ensure that all students attain the academic standards at a proficient level or higher. This description must specifically address how the school entity deploys its most effective and highly qualified teachers to meet the learning needs of students who are below proficiency or are at risk of not graduating.

(9) Continuous professional education. A professional education plan, including:

(i) Requirements under section 1205.1 of the School Code (24 P.S. § 12-1205.1) and § 49.17 (relating to continuing professional education);

(ii) The induction plan under § 49.16 (relating to approval of induction plans);

(iii) Professional education programs linked to the academic standards under § 4.12.

(iv) How to promote professional collaboration regarding continuous improvement of instruction and student achievement.

(10) Organization and goals. A description of the school entity's organization and organizational goals and their relationship to differing student needs within the school entity's goals under paragraph (2) and the attainment of academic standards under paragraph (3).

(11) Utilization of resources. A description of the resources the school entity plans to devote to the attainment of academic standards, including professional personnel, school library, classroom materials, educational technology, school facilities, budget and other resources available to the school entity.

(12) Parent and community participation. A description of the school entity's approaches for involving parents or guardians, community groups, businesses and institutions of higher education in the learning process, as appropriate.

(13) Support for struggling schools. A description of the school district's or area vocational technical school with multiple campuses' process for assisting schools that do not meet the annual student achievement improvement targets and school experiencing other challenges that deter student attainment of the academic standards at a proficient level or higher.

(14) Milestones of progress. A listing of the specific goals, tasks and initiatives that must be accomplished by a specified date within each year of the planning cycle. The goals, tasks and initiatives must be derived from the priorities described in the strategic plan, as locally appropriate benchmarks that ensure consistent monitoring and midcourse correction.

(15) Planning process. A brief description of the process used to develop the strategic plan, including a list of persons involved in its development.

(16) Coordination with other programs. A description of how the school district will accomplish coordination with the following before or after school programs and services for all grade levels, including prekindergarten, if offered, through 12:

(i) Child care.

(ii) After school programs.

(iii) Youth workforce development programs.

(iv) Tutoring.

(d) Strategic plans, the 6-year plan, mid-term review report, annual updates and all other revisions to the plan, shall be developed through active participation by parents, students, school directors, teachers from elementary schools, middle/junior high schools, senior high schools and AVTS, educational specialists (for example, school

~~nurses, guidance counselors~~, school administrators, other school personnel, and business and community representatives. Teacher representatives shall be chosen by teachers[, and] ~~AND; educational specialists shall be chosen by educational specialists;~~ administrative representatives shall be chosen by the administrative personnel[,]; and school director representatives shall be chosen by the board of the school district or AVTS.

(e) Prior to its approval by the board of directors, the strategic plan and revisions of it shall be made available for public inspection in the school district's or AVTS's offices, on the SCHOOL DISTRICT'S OR AVTS'S entity's web site and nearest public library until the next regularly scheduled board meeting or a minimum of 28 days whichever comes first. The plan shall be filed with the Department after it is recommended by the school superintendent of record **OR CHIEF EXECUTIVE OFFICER** and is approved by the school district's or AVTS's board of directors or **CHARTER SCHOOL'S BOARD OF TRUSTEES**. If the board of directors **OR TRUSTEES** alters the proposed strategic plan developed under subsection (d), it shall consult with the committee which developed it to reach the greatest possible consensus prior to its submission and shall include any minority report which is developed.

~~(g) As an extension of this chapter, the locally approved strategic plan shall be administered in the school entity under the authority of a commissioned officer,~~

~~AVTS administrative director or cyber charter school chief executive officer and readily available to the public.~~

CURRICULUM AND INSTRUCTION

§ 4.21. Elementary education: primary and intermediate levels.

(a) The primary program shall ordinarily be completed by children who are approximately 8 years of age ~~and may include prekindergarten~~. School districts shall provide opportunities for individualized rates of learning and social and emotional development that reflect differing rates of development and learning styles of young children.

(b) Curriculum and instruction in the primary program [shall] must be standards-based and focus on introducing young children to formal education, developing an awareness of the self in relation to others and the environment, and developing skills of communication, thinking and learning. Literacy skills, including phonemic awareness, phonological awareness, fluency, vocabulary and comprehension and developmental writing will begin in prekindergarten and kindergarten, if offered, and developed appropriately for the primary grade level.

(d) [Curriculum] Standards-based curriculum and instruction in the intermediate level [shall continue the development of communication, thinking and

learning skills and shall begin to focus on learning specific subject matter content] must enable all students to reach the proficient level on the local assessment system and the Statewide assessment system. Academic standards will guide the focus on learning specific subject matter content.

(e) Planned instruction aligned with academic standards in the following areas shall be provided to every student every year in the primary program. Planned instruction may be provided as separate course or other interdisciplinary activity.

(6) Health, safety and physical education, including instruction in concepts and skills which affect personal, family and community health and safety, nutrition, [physical] the prevention of alcohol, chemical and tobacco abuse, knowledge and practice of lifetime physical activities, personal fitness, basic movement skills and concepts, motor skill development, principles and strategies of movement, and safety practices in physical activity settings [and the prevention of alcohol, chemical and tobacco abuse].

(f) Planned instruction in the following areas shall be provided to every student every year in the intermediate level program. Planned instruction may be provided as a separate course or as an instructional unit within another course or other interdisciplinary instructional activity:

(3) Science and technology, including[, **when appropriate,**] instruction about agriculture and agricultural science.

(4) Environment and ecology, including[, **when appropriate,**] instruction about agriculture and agricultural science.

(8) Health, safety and physical education, including instruction in concepts and skills which affect personal, family and community health and safety, nutrition, **[physical] the prevention of alcohol, chemical and tobacco abuse, knowledge and practice of lifetime physical activities, personal fitness, basic movement skills and concepts, motor skill development, principles and strategies of movement, and safety practices in physical activity settings **[and the prevention of alcohol, chemical and tobacco abuse]**.**

(g) Planned instruction **aligned with academic standards** in the following areas shall be provided to every student at least once by the end of elementary school. Planned instruction may be provided as a separate course or as an instructional unit within another course or other interdisciplinary instructional activity. See section 1511 of the School Code (24 P.S. § 15-1511).

(h) This section does not preclude the teaching of other planned instruction designed to achieve a school [district's, including charter schools,] entity's mission, goals and academic standards.

(j) [Beginning in the 2001-2002 school year, students] Students who have not achieved proficiency in reading and mathematics during their primary grades (K—3), as determined by the school [district, (including charter schools)] entity, shall be afforded additional instructional opportunities through a grade-level learning plan developed by the school [district (including charter schools)] entity. The plan will assist the student in acquiring the knowledge and skills necessary to achieve at the proficient level. Assessments to measure proficiency shall be described in the local assessment system under § 4.52 (relating to local assessment system).

(k) [Beginning in the 2001-2002 school year, students] Students who have not achieved proficiency in reading and mathematics by the end of grade 5 as determined on State assessments under § 4.51 (relating to State assessment system) shall be afforded instructional opportunities to develop knowledge and skills necessary to achieve the proficient level.

§ 4.22. Middle level education.

(a) The middle level **[program ordinarily] planned instruction aligned with academic standards** serves children who are approximately 11—14 years of age. School **[districts, including charter schools,] entities** may modify the grouping of students based upon student needs identified in their strategic plans under § 4.13 (relating to strategic plans).

(b) Curriculum and instruction in the middle level program shall **be standards-based and** focus on mastery of academic subjects, the development of critical and creative thinking, information literacy, good health and encourage active participation in the school and community.

(c) Planned instruction **aligned with academic standards** in the following areas shall be provided to every student in the middle level program. Planned instruction may be provided as a separate course or as an instructional unit within a course or other interdisciplinary instructional activity:

(3) Science and technology, which involves active learning experiences and which may include laboratory experiments and**[, when appropriate,]** instruction in agriculture and agricultural science.

(5) Environment and ecology, including social, political and economic aspects of ecology, and **[when appropriate,]** instruction in agriculture and agricultural science.

(d) This section does not preclude the teaching of other planned instruction designed to achieve a school **[district's, including charter schools,]** entity's academic standards.

(e) School **[districts, including charter schools,]** entities shall determine the most appropriate way to operate their middle level programs to achieve the purposes under subsection (b) and the academic standards in their strategic plans under § 4.13.

§ 4.23. High school education.

(b) Curriculum and instruction in the high school shall **be standards-based and** provide all students opportunities to develop the skills of analysis, synthesis, evaluation and problem-solving, and information literacy.

(c) Planned instruction **aligned with academic standards** in the following areas shall be provided to every student in the high school program. Planned instruction may be provided as a separate course or as an instructional unit within a course or other interdisciplinary instructional activity:

(9) Family and consumer science, including principles of consumer behavior and basic knowledge of child health [and], child care [skills] and early literacy skill development.

(f) This section does not preclude the teaching of other planned instruction designed to achieve a school [district's, including charter schools,] entity's **DISTRICT'S, INCLUDING A CHARTER SCHOOL'S**, academic standards.

(g) School [districts, including charter schools,] entities **DISTRICTS, INCLUDING A CHARTER SCHOOL**, shall determine the most appropriate way to operate their high school programs to achieve the purposes under subsection (a) and the academic standards in their strategic plans under § 4.13 (relating to strategic plans).

§ 4.24. High school graduation requirements.

(a) Each school [district, including charter schools,] entity **DISTRICT, INCLUDING A CHARTER SCHOOL**, shall specify requirements for graduation in the strategic plan under § 4.13 (relating to strategic plans). Requirements shall include course completion and grades, completion of a culminating project and results of local assessments aligned with the academic standards. ~~Beginning in the 2002-2003 school year, students~~ **STUDENTS** shall demonstrate proficiency in reading, writing and

mathematics on either the State assessments administered in grade 11 or 12 or local assessment aligned with academic standards and State assessments under § 4.52 (relating to local assessment system) at the proficient level or better to graduate. The purpose of the culminating project is to assure that students are able to apply, analyze, synthesize and evaluate information and communicate significant knowledge and understanding.

(d) Each school [district, including charter schools,] entity DISTRICT, INCLUDING A CHARTER SCHOOL, shall describe in its strategic plan under § 4.13 how its planned instruction is designed to prepare students to meet the requirements of subsection (a).

§ 4.25. Languages.

(a) World language programs must prepare students to be proficient in meeting the World Language Standards issued by the Department AND AVAILABLE ON ITS WEB SITE. Every school district shall provide planned instruction in at least two languages in addition to English, at least one of which shall be a modern language, and at least one of which shall be offered in a minimum 4-year sequence in the secondary program (middle level and high school).

(b) World language **planned** instruction under subsection (a) may be offered beginning at any grade level, including the elementary grades.

(c) **World Language Standards issued by the Department will address the ability of students to communicate in a language other than English, including the ability to understand and interpret written and spoken language on a variety of topics and to develop knowledge and understanding of other cultures.**

(D) AS USED IN THIS SECTION, THE TERM WORLD LANGUAGE SHALL MEAN THE STUDY OF THE LANGUAGE, CULTURES, TRADITIONS AND HISTORIES OF DIFFERENT COMMUNITIES OF PEOPLE WHO COMMUNICATE IN LANGUAGES OTHER THAN ENGLISH. AMERICAN SIGN LANGUAGE IS A WORLD LANGUAGE.

§ 4.27. Physical education and athletics.

(b) The physical education program must be adapted for students who are **medically** unable to participate in the regular physical education program.

§ 4.29. HIV/AIDS and other life-threatening and communicable diseases.

(a) [Instruction] ~~Planned instruction aligned with the academic standards~~
~~for health~~ INSTRUCTION regarding ~~the~~ prevention of human immunodeficiency virus
(HIV) infection[] /acquired immunodeficiency syndrome (AIDS) and other life-
threatening and communicable diseases shall be [given for] ~~provided to every student~~
~~in the~~ GIVEN FOR primary, intermediate, middle school and high school [education]
EDUCATION ~~levels~~ and shall follow the requirements of subsections (b) [and]; AND
(c), ~~(d) and (e)~~.

(b) Educational materials and instruction shall be determined by the local school
district [and be appropriate to the age group being taught] ~~in accordance with~~
~~subsections (c), (d) and (e)~~ AND BE APPROPRIATE TO THE AGE GROUP
BEING TAUGHT. [The program of instruction shall include information about the
nature of the diseases, treatments and cures, methods of transmission and how
infection can be prevented. The school district may omit instruction in the
elementary grades on transmission of disease through sexual activity. Programs
discussing transmission through sexual activity shall stress that abstinence from
sexual activity is the only completely reliable means of preventing sexual
transmission. Programs shall stress that avoidance of illegal drug use is the only
completely reliable means of preventing transmission of disease through shared
drug paraphernalia.] THE PROGRAM OF INSTRUCTION SHALL INCLUDE
INFORMATION ABOUT THE NATURE OF THE DISEASES, TREATMENTS
AND CURES, METHODS OF TRANSMISSION AND HOW INFECTION CAN

BE PREVENTED. THE SCHOOL DISTRICT MAY OMIT INSTRUCTION IN THE ELEMENTARY GRADES ON TRANSMISSION OF DISEASE THROUGH SEXUAL ACTIVITY. PROGRAMS DISCUSSING TRANSMISSION THROUGH SEXUAL ACTIVITY SHALL STRESS THAT ABSTINENCE FROM SEXUAL ACTIVITY IS THE ONLY COMPLETELY RELIABLE MEANS OF PREVENTING SEXUAL TRANSMISSION. PROGRAMS SHALL STRESS THAT AVOIDANCE OF ILLEGAL DRUG USE IS THE ONLY COMPLETELY RELIABLE MEANS OF PREVENTING TRANSMISSION OF DISEASE THROUGH SHARED DRUG PARAPHERNALIA.

(c) The program of instruction must include information about the nature of the diseases, treatments and cures, methods of transmission and how infection can be prevented. It is recommended that the school district's age appropriate planned curriculum conform to the "Guidelines for Effective School Health Education to Prevent the Spread of AIDS," issued by the United State Centers for Disease Control and Prevention or other science-based guideline. The school district may omit instruction in the elementary grades (K - 6) on transmission of disease through sexual activity. Programs discussing transmission through sexual activity shall stress that abstinence from sexual activity is the only completely reliable means of preventing sexual transmission. Programs must stress that avoidance of illegal drug use is the only completely reliable means of preventing transmission of disease through shared drug paraphernalia.

~~(d)~~ A school [district, including charter schools,] entity shall excuse a pupil from HIV/AIDS instruction when, based upon an inspection of the instructional materials, the parents or guardians find that the instruction conflicts with [the] their THE religious beliefs [or principles of the pupil or parent or guardian of the pupil and when excusal is requested in writing] OR PRINCIPLES OF THE PUPIL OR PARENT OR GUARDIAN OF THE PUPIL AND WHEN EXCUSAL IS REQUESTED IN WRITING, and the parents or guardians have delivered a written request for excusal to the school entity. [Prior to the commencement of instruction, a school district shall publicize that detailed curriculum outlines and curricular materials used in conjunction with the instruction are available to parents and guardians during normal school hours or at teacher-parent conferences.] PRIOR TO THE COMMENCEMENT OF INSTRUCTION, A SCHOOL DISTRICT SHALL PUBLICIZE THAT DETAILED CURRICULUM OUTLINES AND CURRICULAR MATERIALS USED IN CONJUNCTION WITH THE INSTRUCTION ARE AVAILABLE TO PARENTS AND GUARDIANS DURING NORMAL SCHOOL HOURS OR AT TEACHER-PARENT CONFERENCES. Curricular materials, if practical, shall be made available by the school [district] entity for home instructional use by a parent or guardian [of a] if the OF A student has been HAS BEEN excused from the [district's] school entity's HIV/AIDS instruction.

(e) Before beginning HIV/AIDS instruction, a school entity shall publicize that detailed curriculum outlines and curricular materials used in conjunction with

the planned instruction are available to parents and guardians for review during normal school hours or at teacher-parent conferences.

VOCATIONAL-TECHNICAL EDUCATION

§ 4.31. Vocational-technical education.

(a) Vocational-technical education courses shall be developed in the planned instruction format and shall be accessible to all high school students attending those grades in which vocational-technical education courses are offered. All students and their parents or guardians shall be informed of the students' rights to participate in vocational-technical education programs and courses **AND THAT STUDENTS WITH DISABILITIES ENROLLED IN THE PROGRAMS ARE ENTITLED TO SERVICES UNDER CHAPTER 14 (RELATING TO SPECIAL EDUCATION SERVICES AND PROGRAMS).** Students who complete approved vocational-technical education programs shall have their occupational competency assessed by completion of the appropriate assessment under the Pennsylvania Skills Certificate Program or by completion of another occupational competency assessment approved by the Department. **A STUDENT WITH A DISABILITY SHALL BE PROVIDED APPROPRIATE ACCOMMODATIONS WHEN PROVIDED FOR IN THE STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM.** Students shall also demonstrate proficiency in meeting academic standards as required under § 4.24(a) (relating to high school graduation requirements), INCLUDING § 4.12(F) (RELATING TO ACADEMIC STANDARDS) AND § 4.24(E) FOR

STUDENTSWITH DISABILITIES WITH AN INDIVIDUALIZED EDUCATION PROGRAM.

(c) Vocational-technical education programs shall consist of a series of planned academic and vocational-technical education courses that are articulated with one another so that knowledge and skills are taught in a systematic manner. When appropriate, vocational-technical education programs **must adopt, in program areas for which they are available, industry recognized skills standards and** may also include cooperative vocational-technical education and participation in vocational student organizations to develop leadership skills.

§ 4.33. Advisory committees.

(c) An occupational advisory committee shall be established for each vocational-technical education program or cluster of related programs offered by a school district or AVTS. **The committee shall be appointed by the board of directors, and a majority of the members of the committee shall be employees and employers in the occupation for which training is provided.** The committee shall meet at least [once] **twice** each year to advise the board, administration and staff on curriculum, equipment,

instructional materials, safety requirement, program evaluation and other related matters and to verify that the programs meet industry standards and, if appropriate, licensing board criteria and that they prepare students with occupation related competencies.

ASSESSMENT

§ 4.51. State assessment system.

(a) The State assessment system shall be designed to serve the following purposes:

(1) Provide students, parents, educators and citizens with an understanding of student and school performance consistent with the No Child Left Behind Act of 2001, the act of January 8, 2002 (Pub. L. 107-110, 115 Stat. 1425).

(3) Provide results to school [**districts, including charter schools, and AVTSs**] entities for consideration in the development of strategic plans under § 4.13 (relating to strategic plans).

(6) Provide results to school [**districts, including charter schools, and AVTSs**] entities based upon the aggregate performance of all students, for students with an Individualized Education Program (IEP) and for those without an IEP.

(b) [All] State assessment instruments **administered in reading, WRITING and mathematics in grades 5, 8 and 11 and in writing in grades 6, 9 and 11** will be standards-based and criterion referenced and include essay or open-ended response items in addition to other item formats. The proportion of type of items will vary by grade level. Neither State assessments nor academic standards under § 4.12 [shall] **may** require students to hold or express particular attitudes, values or beliefs. The Department will make samples of assessment questions, instrument formats, and scoring guides available to the public after each administration of State assessments. The criteria for judging performance on State assessments are as follows:

(2) Performance on State mathematics assessments shall be demonstrated by students' responses to questions about grade-appropriate content and by the quality of their responses to questions [which] **that** require a written solution to a problem.

(d) The State assessments shall be administered annually and [shall] include assessments of the State academic standards in mathematics and reading at grades **3, 4, 5, 6, 7, 8 and 11 [and]; in writing at grades 6, 5, 9, 8 and 11; and in science at grades 4, 7, 8 and 10, 11. The purpose of State assessments administered in [1999] 2005 is to validate assessment instruments and to provide initial information to teachers and**

~~schools to guide the redesign of curricula and instructional strategies to enable all students to achieve at the proficient level on the academic standards.~~

(f) **[Expansion]** The Board will authorize the expansion of the State assessment system **[will be authorized by the Board]** through a revision of this chapter.

(g) The Department will implement provisions for security of the State assessment system, including the following provisions:

(1) Action by a professional **[employee]** employee or commissioned officer **[which]** that is willfully designed to divulge test questions, falsify student scores or in some other fashion compromise the integrity of the State assessment system as determined by the school **[district]** entity shall be subject to disciplinary action under **[sections 1259—1267 of the School Code (24 P.S. §§ 12-1259—12-1267)]** the Professional Educator Discipline Act (24 P.S. §§ 2070.1a—2070.18a).

(i) The Secretary will report each September to the Board and the General Assembly information and pertinent data relating to the State assessment system. The Secretary will also provide each school **[district (including charter schools) and AVTS]** entity information and pertinent data for the school **[district or AVTS]** entity and its students.

(j) Children with disabilities and children with limited English proficiency shall be included in the State assessment system as required by Federal law, with appropriate accommodations, **[where] when** necessary. As appropriate, the Commonwealth will develop guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in the State assessment as determined by each child's Individualized Education Program team under the Individuals with Disabilities Education Act and this part.

§ 4.52. Local assessment system.

(a) Each school **[district, including charter schools, and AVTS] entity** shall design an assessment system to do the following:

(1) Determine the degree to which students are achieving academic standards under §§ 4.12 and 4.13(c)(3) (relating to academic standards; and strategic plans). The school **[district (including charter schools) or AVTS] entity** shall provide assistance to students not attaining academic standards at the proficient level or better and the assistance to be provided shall be indicated in the strategic plan under § 4.13.

(c) **[The local assessment system shall be described in the district's (including charter schools) or AVTS's strategic plan under § 4.13(b)(5).] THE LOCAL ASSESSMENT SYSTEM SHALL BE DESCRIBED IN THE SCHOOL**

ENTITY'S STRATEGIC PLAN UNDER § 4.13(b)(5)(C)(5). If a school entity chooses to use a local assessment to determine whether a student is proficient as outlined in § 4.24(a) (relating to high school graduation requirements), the local assessment must be described in the school entity's strategic plan and adhere to the following:

(1) Local assessments may be a single exam or a combination of assessment strategies, including, but not limited to:

(i) A Nationally recognized standardized assessment.

(ii) A locally developed standardized assessment.

(iii) A portfolio assessment.

(2) The proficient level on the local assessment shall be comparable to the proficient level on the PSSA.

(3) The Department will determine whether a school entity is meeting the requirements of paragraph (2). School entities that use one or more local assessments for the purpose of determining whether a student is proficient as outlined in § 4.24(a) shall submit an annual report on a form and in a manner determined by the Department certifying the comparability or alignment between the PSSA and the local assessment or assessments and providing data specified by the Department to support the certification. The existence of significant numbers of students not achieving proficiency on the PSSA who are deemed proficient by a

local assessment will raise an inference that the local assessment is not aligned with the PSSA or the PSSA's meaning of proficient. A school entity whose certification is rejected by the Department shall use the PSSA for the purposes of § 4.24(a) until the school entity receives Department approval that a local assessment or assessments meets the requirements of paragraph (2).

(4) If the report and certification are not submitted as required, or if the Secretary is not satisfied with the form or accuracy of the report and certification that have been submitted by the school entity, the Secretary will exercise the powers under section 2552 of the School Code (24 P.S. § 25-2552) regarding withholding State appropriations, in a manner that is consistent with law, until the Secretary is satisfied that the school entity is in compliance with this chapter.

(d) The local assessment system shall be described in the [district's (including charter schools) or AVTS's] school entity's DISTRICT'S (INCLUDING A CHARTER SCHOOL'S) OR AVTS'S strategic plan under § 4.13 (b)(5)(C)(5), including industry certifications earned by vocational-technical students, Pennsylvania skill certificates earned by vocational technical education students, and projects completed by vocational-technical education students which demonstrate their occupational competency.

[(d)] (e) * * *

SCHOOL PROFILES

§ 4.61. School profiles.

(a) School profiles developed by the Secretary will include **[the following]** information **as required under Federal and State law** BY SECTION 220 OF THE SCHOOL CODE (24 P.S. § 2-220)[, in addition to other information the Secretary deems appropriate:

(1) Results of State assessments under § 4.51 (relating to State assessment system).

(2) Results of local assessments under § 4.52 (relating to local assessment), which may not include student names, identification numbers or individually identifiable information.

(3) School performance improvement goals based on State assessment results under § 4.13 (relating to strategic plans).

(4) Class size.

(5) Information about the instructional program.

(6) Percentages of students who graduate or who drop out and the status of graduates the year after they leave high school.

(7) Student attendance.

(8) **Teacher attendance.**

(9) **Information about fiscal support of the school, school district or AVTS].**

(b) In compiling school profiles under this chapter, the Department will provide school entities interpretive information to assist in using the profiles for strategic planning under § 4.13 (**relating to strategic plans**).

ENFORCEMENT AND IMPLEMENTATION

§ 4.81. Allegations of deficiencies.

(a) The Secretary will receive and investigate allegations of curriculum deficiencies from professional [**employees**] **employees**, commissioned officers, parents of students or other residents of a school [**district or AVTS**] **entity**.

(b) The Secretary will notify the school [**district or AVTS**] **entity's** superintendent **or chief executive** of allegations and may require the superintendent **or chief executive** to submit one or more of the following:

(c) If the Secretary determines that a curriculum deficiency exists, the school **[district or AVTS] entity** shall be required to submit to the Secretary for approval a plan to correct the deficiency.

(d) Within 1 year of the implementation of a corrective action plan under subsection (c), the Secretary will review the actions taken to correct the deficiency. If the deficiency remains uncorrected, the Secretary will send a formal notice of deficiency to the **governing board of the** school **[district or AVTS board of school directors] entity**, and the notice shall be announced at the **[school board] meeting of the school entity's governing board** immediately following its receipt.

(e) If the school **[district or AVTS] entity** does not take appropriate actions to correct the deficiency after the notice of deficiency is announced, the Secretary will take action under State law.

§ 4.82. Exceptions.

(a) The Secretary may grant exceptions to specific provisions of this chapter when it is necessary to adapt them to the curriculum needs of individual school **[districts or AVTSs] entities or** to facilitate transition to the revised provisions of this chapter. Specific exception may be made for school **[districts (including charter schools) and AVTSs which] entities that** develop or implement academic standards that are comparable to or exceed those found in § 4.12 (relating to academic standards). Exceptions may be granted under the following conditions:

§ 4.83. [Implementation schedule] (Reserved).

[(a) The strategic plans under § 4.13 (relating to strategic plans) shall be developed by a schedule to be determined by the Department. Plans addressing the requirements of this chapter shall be on file with the Department by September 30, 2002.

(b) In the school year in which a school district (including charter schools) or AVTS submits its initial strategic plan under § 4.13, it shall implement professional development, curriculum development and assessment development activities identified in the strategic plan and shall receive technical assistance from the Department.]



Commonwealth of Pennsylvania
STATE BOARD OF EDUCATION

December 4, 2007

Mr. Kim Kaufman
Executive Director
Independent Regulatory Review Commission
14th Floor, 333 Market Street
Harrisburg, PA 17126

Dear Mr. Kaufman:

Enclosed is a copy of final form State Board of Education regulation 22 Pa. Code, Chapter 4 – Academic Standards and Assessment (#006-295) for review and action by the Commission pursuant to section 5(c) of the Regulatory Review Act.

The State Board of Education will provide the Commission with any assistance it requires to facilitate a thorough review of this final-form regulation.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Buckheit".

Jim Buckheit
Executive Director

Enclosure

cc: Secretary Zahorchak
Karen Farmer White
Gregory Dunlap, Esq.
Teresa Colarusso

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 6-295
 SUBJECT: ACADEMIC STANDARDS AND ASSESSMENT
 AGENCY: STATE BOARD OF EDUCATION

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED
 2007 DEC -4 AM 10:36
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
12/4/07	Rita Markle	HOUSE COMMITTEE ON EDUCATION
12-4-07	A. Edwards	MAJORITY CHAIRMAN <u>James R. Roebuck, Jr.</u>
12-4-07	A. Rybarczyk	
		SENATE COMMITTEE ON EDUCATION
	D.H. 12/4/07	MAJORITY CHAIRMAN <u>James J. Rhoades</u>
12/4/07	Kathy Coops	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)