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Commonwealth of Pennsylvania
STATE BOARD OF EDUCATION

November 28, 2005

Mr. Timothy Allwein
Assistant Executive Director
Governmental & Member Relations
PA School Boards Association
400 Bent Creek Blvd.
Mechanicsburg, PA 17050

Dear Mr. Allwein:

Thank you for your letter of November 23, 2005 on proposed 22 Pa. Code, Chapter 4, Curriculum Regulations.

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

The regulatory Review Act provides that information on proposed and final regulations be mailed to public commentators at their request. If you would like to receive the final-form of these regulations when they are finalized, please make your request to me in writing at the address printed below.

Sincerely yours,

A handwritten signature in black ink that reads "Jim Buckheit".

Jim Buckheit
Executive Director

cc: Members of the State Board
Senator Rhoades
Senator Musto
Representatives Stairs
Representatives Roebuck
IRRC



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REVIEW COMMISSION

REC'D NOV 28 2005

Nov. 23, 2005

Jim Buckheit, Executive Director
State Board of Education
333 Market Street
Harrisburg, PA 17126-0333

Dear Mr. Buckheit:

The Pennsylvania School Boards Association would like to take this opportunity to comment on proposed 22 Pa. Code, Chapter 4, regarding pupil attendance, as revised by the State Board of Education and published in the Nov. 5, 2005 issue of the *Pennsylvania Bulletin*.

PSBA supports the efforts of the board to revise various sections of Chapter 4, particularly as school districts are working hard to mesh the provisions of these regulations with the requirements of the federal No Child Left Behind Act. Since these regulations became effective in 1999, many changes have occurred through the enactment of NCLB coupled with Pennsylvania's plan and practice for implementation of the law. This is an opportunity for the State Board to strengthen and clarify issues that have a profound impact on schools and students.

We have generally supported these changes with some exceptions to various sections, and our comments here reflect these concerns. At this time, we would like to address the following issues:

Inconsistencies between this draft of Chapter 4 revisions with PDE's early childhood education package— Since this proposal was written prior to the introduction of the Department of Education's proposed early childhood education package, some of the language in this draft is inconsistent with that package. As you are likely already well aware of these inconsistencies, we mention them here only for the record. First, in **Section 4.3 (i)**, the definition of pre-kindergarten is different from the definition suggested as part of the Chapter 4 changes with early childhood. Next, language in **Section 4.21** on elementary education states that the primary program may include pre-kindergarten. In contrast, the early childhood package proposes the creation of a new Section 4.20 that deals exclusively with pre-kindergarten education. **Section 4.13 (12)** calls for parent and community participation in the strategic planning process with language that is different from the same sub-section as part of the early childhood package. The early childhood package also adds a subsection (17) and makes changes to **4.13 (d)** regarding the composition of the strategic planning committee that is different from the other package.

Section 4.4 Opt-Out Policy – Language under 4.4 (5) that gives parents the right to have their children excused from the state assessment if they believe it conflicts with their religious beliefs places Pennsylvania and school districts at odds with a requirement under NCLB for all students

to participate in the state assessment. The state Accountability Workbook for compliance with NCLB says that these students do count toward the participation rate for determining Adequate Yearly Progress. In practice, these students also are given a score of “Below Basic” on the assessments, even though they did not take them. This false reporting hurts the student, the school and the school district. While PSBA is not opposed to the opt-out policy, the association believes the Department of Education should take steps to have these students excused from the participation rate. Although we realize that the best way to accomplish this is by amending NCLB, which is beyond the ability of the State Board or PDE, the department could request an amendment to the Accountability Workbook seeking an allowance for Pennsylvania students. **PSBA urges the State Board to pursue this issue by formally requesting PDE to seek such an amendment.**

Section 4.13 Strategic Planning – The State Board has proposed various substantive changes to this section. PSBA would like to offer comments on these specific provisions:

4.13 (a) – The proposal calls for school districts to update their strategic plans “as necessary each year” in addition to the requirement to develop a plan once every six years and review/revise it at the mid-point. The addition of this new requirement is redundant, as districts already have the “ability to conduct a continuous strategic planning process” as stated in subsection (c). Districts need time to properly evaluate the elements of their plans, and should not be required to update their plans annually. The existing language in subsection (c) provides flexibility for those districts that decide to revise their strategic plans more often than the six-year/mid-point review cycle. The addition of the phrase “as necessary each year” seems to suggest that districts may or will be expected to revise their plans annually. **PSBA requests that the language in (a) calling for an annual review be deleted in order to prevent confusion or misinterpretation of the regulations.**

4.13 (c) – This comprehensive subsection contains the provisions for the heart of the strategic planning process, the focus for the plans and a listing of 16 elements that the plans must include. While we are generally supportive of the language, we offer the following comments.

PSBA has two concerns with the proposed addition in (c) of the following sentence: “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.”

First, what does it mean for a strategic plan to become an extension of Chapter 4? What is the purpose/impact of this language on school districts? Would a strategic plan then fall under the jurisdiction of the Department of Education? Second, the latter part of the sentence states that the plan can only be changed by the strategic planning committee approved by the local school board. It is unrealistic to assume that the original membership of a planning committee will not change over a six-year period. People come and go for many reasons, and those vacancies are filled as necessary.

Of more critical concern is the implication that only the committee can change the plan. The role of the strategic planning committee is to develop a proposed plan to the school board, not to revise or to approve the document. As it is clearly stated in subsection (e), only the school board has the authority to approve the strategic plan, and it is not required to accept the recommendations of the committee in their entirety. If the board alters a proposed plan, it must try to reach the greatest possible consensus, but the final decision rests with the board. The school board is the governing body of the school district, and has the best understanding of the needs and resources available. Therefore, if the board wishes to change the plan, it clearly has the authority to do so without the permission of the committee.

With these two concerns in mind, PSBA urges the State Board to delete this entire sentence under subsection (c).

Also under the subsection is the listing of the 16 elements that must be addressed in a strategic plan. Clearly, the focus is for districts to create and implement rigorous efforts to raise and maintain student and school achievement that reflects the goals under the No Child Left Behind Act. These 16 elements will require school boards and strategic planning committees to conduct thoughtful, meaningful deliberations as they develop their plans. Some of the elements appear to be very similar, such as “(2) Results for students,” (4) Measurable annual improvement targets,” and “(14) Milestones of progress.” Perhaps some of these elements could be combined/blended as a means of helping boards and strategic planning committees to consider such concepts as a whole. PSBA supports the continuation of language that allows school boards to have final approval of their plans and requires them to file their plans with the department.

In addition, PSBA believes additional clarification is needed to element “(16) Coordination with other programs.” Under this element, districts must describe how they “will accomplish coordination” with before and after school programs and services for all grade levels. The services and programs include child care, after school programs, youth workforce development programs and tutoring. This language is awkward and vague. What does “accomplish coordination” mean? Coordination with what – transportation, staffing, curriculum? What would be the specific responsibilities of the school district?

Finally, we note in subsection (d) the addition of specific groups of teachers and educational specialists on the strategic planning committee. Currently, teachers are included in the committee, along with parents, students, school directors, school administrators, other school personnel and business and community representatives. There is no specific requirement for representation of these other groups of participants, and we question why there is a need to do so regarding teachers. The 16 elements that must be addressed in a strategic plan will require the committee and the school board to address the needs of students and employees at the elementary, middle and high school levels. PSBA recommends that the existing language be retained with only the addition of educational specialists, who may bring a specific expertise to the committee.

Section 4.24 High School Graduation – We support continuation of existing language that allows school entities to specify requirements for high school graduation, particularly provisions that allow students to achieve proficiency on either the state assessment or a local assessment in order to graduate. This section clarifies the State Board’s policy of not requiring the use of the PSSA as a high school exit exam. As a technical matter, the board may consider deleting the phrase “Beginning in the 2002-2003 school year” since we are now in the 2005-2006 school year.

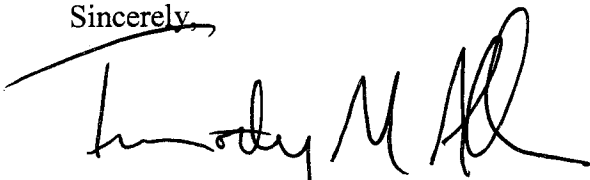
Section 4.25 Languages – We support the board’s decision to maintain the existing requirement for school districts to provide planned instruction in at least two languages, with no mandate in the proposal for students to take such courses. While we agree with the requirement for schools to offer such instruction, and support the development of world language standards, we also believe that these courses should be taken by students who wish to take them and not be part of a mandated curriculum. The board’s decision to maintain the existing requirement does not in any way diminish the importance of world language programs. Rather, it provides continued flexibility for students and ensures that opportunities to learn another language will be provided in public schools.

Section 4.51 State Assessment System – The changes to this section have been made to acknowledge and incorporate the administration of the state assessment system to comply with requirement of the No Child Left Behind Act. However, the subject testing at specific grade levels is inconsistent with actual practice and should be updated. For example, in **4.51 (b)** the proposal states that reading and math assessments will be given in grades 5, 8 and 11, and that writing tests will be administered in grades 6, 9 and 11. Likewise, in **4.51 (d)** it again states that writing tests will be given in grades 6, 9 and 11; additionally it states that the science assessment will be administered in grades 4, 7 and 10. As you know, in practice the reading and math tests will be given in grades 3, 4, 5, 6, 7, 8 and 11 in 2006. The writing assessment is given in grades 5, 8 and 11. The Department of Education has issued assessment anchors for the science assessment for grades 4, 8 and 11. **PSBA recommends that the grades levels be revised to reflect actual current practice.**

Section 4.52 Local Assessment System – PSBA has serious concerns with the language that is proposed for this section. **The association has joined with other education organizations to issue a statement that details the reasons for our opposition to the language, and to urge the State Board to delete subsections (2), (3) and (4).** As proposed, Section 4.52 focuses on the use of local assessments versus the PSSA as a high school graduation requirement. Through the requirements and procedures outlined in the proposal, the regulations create a strong disincentive for school districts and AVTSs to use a local assessment as a graduation requirement, even though they are allowed under to do so under Section 4.24 (relating to graduation requirements) and may conflict with provisions under Section 4.4 (permitting parents to have their child excused from state assessments). A copy of the joint statement is enclosed.

We appreciate the opportunity to review and comment on the proposed amendments to Chapter 4, and we would welcome the opportunity to continue discussion regarding the issues addressed in this letter.

Sincerely,



Timothy M. Allwein
Assistant Executive Director
Governmental and Member Relations

cc: Members, Senate Education Committee
Members, House Education Committee
Kim Kaufman, Independent Regulatory Review Commission