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REGULATORY REVIEW COMMISSION

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 joint statement letter of November 23, 2005 from the PA School Boards Association, PA Association of School Administrators, American Federation of Teachers, PA Association of Vocational Administrators, and the PA State Education Association on proposed 22 Pa. Code, Chapter 4, academic standards and assessments.

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 cursive script 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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November 23, 2005

REC'D NOV 28 2005

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

Dear Mr. Buckheit: *Jim*

On behalf of the Pennsylvania Association of School Administrators, Pennsylvania State Education Association, American Federation of Teachers, Pennsylvania Association of Vocational Administrators, and the Pennsylvania School Boards Association, I am enclosing a joint statement in opposition to proposed revisions to Section 4.52 of the regulations under Title 22, Chapter 4, regarding academic standards and assessments. The entire draft of revisions was published in the Nov. 5, 2005 issue of the *Pennsylvania Bulletin*.

We are strongly opposed to the revision of Section 4.52, subsections (2), (3) and (4) and ask that you seek removal of this language. This language allows schools to use a local assessment as a graduation requirement, but does so in a way that creates numerous barriers and disincentives. Effectively, the proposal is just one step away from establishing the state assessment as an exit exam.

We offer these comments to you as the proposal moves through the regulatory review process. Each of our organizations stands ready to meet with you or to testify on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy M. Allwein", is written over the word "Sincerely,".

Timothy M. Allwein
Assistant Executive Director
Governmental and Member Relations

cc: Members, Senate Education Committee
Members, House Education Committee
Karl Girton, State Board of Education
Kim Kaufman, Independent Regulatory Review Commission

**Joint statement from PASA, PSEA, AFT Pa, PAVA and PSBA
in opposition to proposed changes to Title 22, Chapter 4, Section 4.52**

The Pennsylvania Association of School Administrators, Pennsylvania State Education Association, American Federation of Teachers, Pennsylvania Association of Vocational Administrators and the Pennsylvania School Boards Association have joined together to oppose proposed changes to Section 4.52 of the regulations under Title 22, Chapter 4 (Standards and Assessment). The State Board of Education announced its intention to adopt the proposal on June 30, 2005. It was added to the previously adopted (July 2004) draft of proposed revisions to the entire Chapter 4.

Currently, Section 4.52 requires school districts and area vocational technical schools to create a local assessment system. Local assessments must be aligned with the state academic standards and be used to determine the degree to which students are achieving the standards. The local assessment system must be designed to include a variety of assessment strategies that may include tests, written work, scientific experiments, works of art, musical or theatrical performances, and other demonstrations or projects by students. The results of these assessments are used to help identify students who need assistance in attaining the academic standards and also to improve curriculum and instructional practices of the school. Our organizations support the use and purpose of the local assessment system in its current form because it allows schools and teachers to obtain a more complete picture of a student's knowledge, skills and talents in academic areas. An assessment system does not put high stakes reliance on just one test, but instead uses a variety of tests and other strategies to measure academic progress.

As proposed, Section 4.52 focuses on the use of local assessments versus the PSSA as a high school graduation requirement. In effect, the proposed language would create a presumption that a single PSSA test is a better assessment than the local school districts' multi-year, in-depth analysis that is based on many tests and projects over the course of the students' education. It also would authorize the secretary of education to force the local districts to make their local assessment results mirror the PSSA results. Thus, 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 to do so under Section 4.24 (relating to graduation requirements). Furthermore, this may conflict with Section 4.4's provisions permitting parents to opt their child from state assessments.

The new language under Section 4.52 would still allow school entities to use either the PSSA or a local assessment as a graduation requirement. However, the proficient level on the local assessment must be comparable to the proficient level on the PSSA, and the Department of Education would determine whether a school entity has met that requirement.

School entities that choose to use a local assessment instead of the PSSA as a graduation requirement would be required to submit an annual report to PDE “on a form and in a manner determined by the department” certifying the alignment between the local assessment and the PSSA. The school also would have to provide data specified by PDE to support the certification. If more students achieve proficiency on the local assessment than the PSSA, the PDE will infer 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 PDE would then be required to use the PSSA as a graduation requirement until PDE determines that the local assessment meets the requirement to be aligned with the PSSA.

If the annual report and certification are not submitted as required, or if the secretary “is not satisfied with the form or accuracy of the report,” the secretary will withhold funding “until such time as the secretary is satisfied that the school entity is in compliance with this chapter.”

We oppose these proposed changes to Section 4.52, subsections (2), (3) and (4) because the language is vague, subjective, punitive and counterproductive. Although the proposal still permits schools to use a local assessment system as a graduation requirement, the hoops that they must continually jump through to do so – and the pressure for the local assessment to mirror the state exam – make this flexibility a sham. **This proposal is one step away from establishing the PSSA as Pennsylvania’s mandatory high school exit exam.** There are many concerns and questions that we raise about the proposal. Among them:

1. Graduation requirements should remain a local determination, with the understanding that schools must establish clear expectations, and require rigorous instruction and assessment of students in accordance with the academic standards and provisions of Chapter 4.
2. The alignment between local assessments and the academic standards should be the key issue, rather than the alignment of local assessments and the PSSA.
3. The sole use of the PSSA provides a single snapshot of a student’s knowledge of the standards. The use of a variety of assessment strategies is a holistic approach that more accurately measures a student’s abilities. Think of it as looking at one photo of a student versus an entire photo album – which one will show you more?
4. The proposed language creates a conflict with provisions of Section 4.4 that allow parents to have their child excused from taking the PSSA. If a parent properly requests excusal, the school must grant it. If the PSSA is forced upon a district or AVTS as a graduation requirement, would such a student be unable to graduate?
5. How will “comparability” between the PSSA and local assessments be measured by the state, particularly if a combination of assessment strategies is used? How will the Department of Education compare the results of PSSAs in reading, math and writing taken in 11th grade with local assessments given in 12th grade?

6. What percentage of students will be used by the state to determine whether “significant numbers” achieve proficiency on a local assessment versus the PSSA?
7. Why is there an automatic inference that if the Department of Education determines that such “significant numbers” exist, that something is wrong with the local assessment? If local assessments must be aligned with the state standards, and students demonstrate proficiency on local assessments, isn’t the goal being met? Why is it assumed that the PSSA is the only correct way to measure achievement of the standards? The PSSA cut scores have not been externally validated. A close reading of the report conducted by the Human Resources Research Organization (HumRRO) suggests that the 11th grade proficiency levels were high. HumRRO's comparisons of student performance on the PSSAs and SATs indicate that a large percentage of students who score basic on the PSSA achieve SAT scores that will gain them admission to college. Is it reasonable to deny students diplomas based on PSSA performance levels that may turn out to be poor predictors of subsequent performance?

At the behest of the Pennsylvania State Board of Education, HumRRO investigated the relationship between 11th grade PSSA Math and Reading scores and other measures of educational achievement. In order to do this the investigators obtained data from three public research universities in Pennsylvania. The HumRRO researchers were able to match student records of PSSA test scores, their performance on their university’s Math and English proficiency exams, and their course grades in their first college English and Math courses.

No one disagrees that performance on the PSSA is positively related to performance on other proficiency tests. The two most interesting findings of latest HumRRO study of the PSSAs are: 1) Both the PSSAs and university proficiency exams were "weak", or in a few cases "moderate" predictors of student grades in their first college Math or English course. 2) Approximately 60% of the students who scored "basic" or "below basic" on the PSSA enrolled in college level Math or English courses in the same subject they had "failed" on the PSSA. Both these results raise questions regarding the external validity of the PSSA cut scores. Consequently, this suggests that proposed revisions to Chapter 4, section 4.52 may result in the denial of high school diplomas to thousands of Pennsylvania's students who would have enrolled in college level (nonremedial) courses in the same subjects they had "failed" on the PSSA.

8. If local assessments had been required to replicate PSSA results in 2003-04, the following percentages of Black, IEP and LEP students would have been unable to graduate because they did not reach Proficient:

	Math	Reading
Black	82%	72%
IEP	89%	86%
LEP	71%	82%

This would be a particularly cruel development for students who demonstrate on the local assessments that they have reached the Proficient level on Pennsylvania's academic standards, given the serious questions that have been raised about the process used to set the PSSA cut scores, as well as the questions that have been raised nationally regarding bias against minority groups in standardized testing generally.

9. What kind of timelines will be established for school entities to prepare and submit an annual report? What kind of documentation and data must the district or AVTS provide to show that it is meeting state requirements? What kind of timelines will be established for the Department of Education to respond? What guidelines will the department use to determine whether it will approve or reject a school's report?
10. Why do school entities have to file reports and certifying data every year? This creates a burdensome administrative requirement that seems to have no purpose other than to act as a disincentive to use a local assessment.
11. The proposal does not allow for any type of appeal process if the Department of Education rejects a school's annual report.
12. The proposal also does not call for the Department of Education to provide any technical assistance to school districts and AVTSs to help them develop their local assessments in a way that meets the state requirements. If the department were to offer assistance to those schools that request help, it would not become necessary to force schools to use the PSSA as a graduation requirement as the only alternative.
13. Rather than providing for a process of assistance to help schools, the regulations instead authorize the secretary of education to withhold their funding. Again, there is no appeal process. How long will the funding be withheld? How will the loss of state funds help schools enhance their instruction and assessment plans to meet the requirements of this regulation?

Our organizations believe that it is important for students to graduate with a knowledge and understanding of the state's academic standards. The development and use of state standards allow for a uniform, but not identical, guide for schools to prepare students for college or the workplace. State initiatives such as PAGE 1, Project 720, dual enrollment, improvements to career and technical centers, and others enhance local efforts. We agree that the use of the PSSA is an important component in measuring student achievement. However, we do not agree that achievement can only be correctly measured in one way, through the PSSA. If students can consistently demonstrate an understanding of the state academic standards through a local assessment system, they should be permitted to graduate.

We urge you to consider these issues and questions as you review this proposal. We ask that you seek changes to this proposal to delete subsections (2), (3) and (4) of Section 4.52.

We would be pleased to meet with you to discuss our comments.

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