

Original: 2499



2005-5 11/3/05
REVIEW COMMISSION

Commonwealth of Pennsylvania STATE BOARD OF EDUCATION

December 1, 2005

Mr. Stinson W. Stroup
Executive Director
PA Association of School Administrators
2579 Interstate Drive
Harrisburg, PA 17110-9602

Dear Mr. Stroup:

Thank you for your letter of November 30, 2005 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,

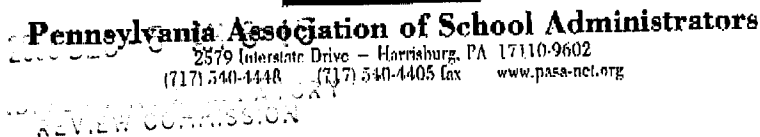
A handwritten signature in cursive script that reads "Jim Buckheit".

Jim Buckheit
Executive Director

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

ORC

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November 30, 2005

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

Dear Mr. Buckheit:

I am writing to comment on the proposed amendments to Chapter 4 to express opposition to the new definition of pre-kindergarten, new requirements for strategic planning, and changes in the assessment provisions that could eliminate local alternatives to the PSSA for making graduation decisions. My comments will track the proposal as published in the *Pennsylvania Bulletin* on November 5, 2005. (Vol. 35, No. 45).

Section 4.3 (relating to definitions) is proposed to be amended to add new definitions of "pre-kindergarten" and "school entity." As proposed, pre-kindergarten programs could be offered by any "school entity," including a cyber charter school. We oppose this for two reasons. One, it is inappropriate to use distance-learning-computer-technologies as the primary delivery system for instruction to young children. Second, school districts should not be required to pay tuition for young children attending these programs.

In part for these reasons, PASA testified before the early childhood education sub-committee of the board on November 7, 2005 that the definition of pre-kindergarten distributed for that hearing is preferable to the definition published on November 5, 2005.

Section 4.13 (relating to strategic plans) is substantially amended. The description of the change states that the purpose of the change is "to focus school entity plans on strategic, rather than operational, issues..." We believe the amendments have just the opposite effect and oppose them for that reason.

Specifically, Section 4.13 (c) contains a list of 16 content areas that must be addressed in the plan. They include a description of academic standards, consistent with the state-adopted academic standards (4.13(c)(3)), "curriculum that is aligned with the academic standards" (part of 4.13 (c)(5)), "the 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." (part of 4.13 (c)(5)).

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From this, it appears that the strategic plan is to include among other things: 1) all of the standards (locally aligned with the state standards); 2) the curriculum; 3) the planned instruction to be offered; 4) the instructional practices that will be used; and 5) the instructional materials that are to be used to help students achieve the standards. Not only will this be a very voluminous document, it will be much more operational than strategic. That is, the new plan requires reporting in considerable detail what the school district is doing to educate students, rather than focusing on what the school district anticipates doing differently to improve that delivery.

Indeed, reporting this level of detail about the school program and in this format may inhibit change rather than promote change. The plan, which includes all of this information, is to be in place for six years. It can be amended. But the plan "can only be changed by the strategic planning committee..." (4.13 (c)). Thus, the strategic planning committee, with its various members, must be reconvened to consider any amendments. Any changes it proposes can be adopted by the board of school directors only after the revisions have been available for public inspection for at least 28 days (4.13 (e)). Further, should the board of school directors wish to alter any proposed changes to the plan coming from the strategic planning committee, the committee must be convened yet again to determine if consensus can be reached before the school board takes final action.

Given the composition of the strategic planning committee and the level of detail the plan contains, there may be resistance to initiating and or approving changes. Please think about trying to write a plan for the next six years that covers everything required by Section 4.13. Think further about trying to change even a small piece of it, such as "the planned instruction to be offered and the instructional practices and instructional materials to be used" in just one course (5), or "the methods and measures used to determine student achievement" against just one set of standards (6), or "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 or other resources available to the school entity." (11). In this regard, would every budget transfer have to go before the strategic planning committee?

We believe the requirements of Section 4.13 as proposed are unrealistic and un-strategic. Instead of moving the plan toward better strategic thinking, the amendments move it toward more operational descriptions. Instead of helping communities set strategic goals, the new procedures create procedural hurdles that inhibit change.

Boards of school directors currently use the strategic planning process to engage their communities and staffs in big-issue and long-range thinking. The amendments published on November 5 provide a disincentive for school boards to continue to use the planning process this way. Setting big goals often means stretching and missing. It often means setting optimistic time lines that are not met. It means anticipating available resources that may turn out to be deficient. All of these hazards are understood in traditional

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strategic planning; yet organizations still commit to stretching because the goals are goals and not legal commitments.

The new language proposed for Chapter 4 will encourage communities and schools to think small because it converts the goals into binding obligations. Section 4.13(c) provides "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." And 4.13(g) states: "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."

Presumably, the plan, as an extension of Chapter 4, becomes subject to enforcement in the same way as a provision of Chapter 4. Does that mean that "The Secretary will receive and investigate allegations of curriculum deficiencies from professional employees, commissioned officers, parents of students or other residents of a school entity" when there is a complaint that a district is not following its strategic plan? Does a finding by the secretary that an element of the strategic plan is not being followed trigger corrective action as defined in Section 4.81?

We have asked Department of Education staff to share with us a draft strategic plan that incorporates all of the data the plan is required to contain under this revised section. We have not seen such a model. Without seeing how this can be done, we are concerned that the combined effect of requiring more detailed descriptions of practice, of making plans more difficult to amend, and of making their content enforceable commitments will result in plans that are longer, more operational and more rigid.

Section 4.52 (relating to local assessment system), as proposed, substantially changes the purpose of the PSSA and the consequences of performance on it. The amendments move the 11th grade PSSA test from a high-stakes accountability measure for school systems to a high-stakes test for individual students by potentially denying a high school diploma to those students who score below proficient on it. We oppose this change.

The 11th grade PSSA was not designed or validated as a high school exit exam. The "cut scores" were not set for this purpose.

Our members are concerned that the PSSA is not a fair or accurate measure of some students' skills and knowledge. The PSSA has been particularly insensitive at measuring the performance of students in special education and English language learner programs. In other contexts, PASA has called upon the department to explore better alternate assessments and accommodations for these students when they take the PSSA. We have

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understood the department to be sympathetic to this need. Indeed, we have understood that the department has sought some relief from using them to determine AYP. Why then would Pennsylvania set the 11th grade PSSA as the necessary measure of student performance for graduation? Yet, that is exactly what the language of Section 4.52 will do.

School districts under Section 4.52, as proposed for amendment, are free to establish more rigorous graduation requirements than passing the 11th grade PSSA, but passing the PSSA at the proficient level will become a necessary, if not sufficient, requirement for the diploma for all students. This will happen because the regulation is without any guidance to school districts or to the Secretary as to what will make a local assessment comparable or aligned with the PSSA except the passage rate.

The regulations will push school entities to use PSSA proficiency because a "significant" difference in the passage rate results in an inference of non-alignment. The lack of guidance given to school districts and the Secretary is further exposed because nothing in the regulation suggests how a school can overcome this inference. Nor is there anything in the regulation that guides the Secretary to discriminate between a "difference in passage rate" and a "significant difference in passage rate." While the regulation calls for school districts using alternate assessments for graduation decisions to file a report "in a form and in a manner determined by the Department...and providing data specified by the Department," even this opportunity for guidance is lost because there is no indication of the kind of data that will be requested nor how the data will be used by the Secretary to make the determination that the local assessment is out of alignment.

The breadth of this unguided discretion is particularly troubling given the severe consequences of its exercise. The Secretary's remedy for a district found to have graduated "too many students" in a prior year is to deny the district the option to independently assess student performance in future years. All future students, regardless of their identified learning styles or needs or the quality of their years of classroom performance, will be judged only on their performance on the PSSA. They will be denied all opportunity to demonstrate proficiency in reading, writing and math using alternate measures of their abilities.

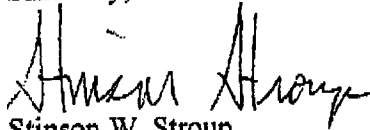
The regulations suggest that this penalty on the district and its future students is in effect only "until the school entity receives Department approval that a local assessment or assessments meets the requirements of paragraph (2)." But it is no clearer how a school entity meets the requirements of paragraph (2) after being found to be out of compliance than it is to determine how it meets the requirements in order to remain in compliance.

On behalf of the administrators who will have to implement these regulations, I urge you to reconsider the amendments to Section 4.52. We oppose making the PSSA a high

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school exit exam. We fear that the unguided discretion given the Secretary to overturn local assessments and local graduation criteria will have this effect.

Sincerely,



Stinson W. Stroup
Executive Director