

# DISABILITIES LAW PROJECT

## Philadelphia

The Philadelphia Building  
1315 Walnut Street, Suite 400  
Philadelphia, PA 19107-4798  
215-238-8070 [Voice]  
215-789-2498 [TDD]  
215-772-3126 [FAX]  
dlp.phila@dlp-pa.org

Respond To: Philadelphia

## Pittsburgh

1901 Law & Finance Bldg.  
429 Fourth Avenue  
Pittsburgh, PA 15219-1505  
412-391-5225 [Voice]  
412-467-8940 [TDD]  
412-391-4496 [FAX]  
dlp.pgh@dlp-pa.org

[www.dlp-pa.org](http://www.dlp-pa.org)

**VIA FACSIMILE NO. (717) 783-2664 AND U.S. MAIL**

May 26, 2006

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

RE: Comments on State Board of Education Regulation #6-297  
(IRRC #2506), Higher Education General Provisions

Independent Regulatory Review Commission:

The Disabilities Law Project/Pennsylvania Protection & Advocacy and the Education Law Center submit the following comments on proposed State Board of Education Regulation #6-297 (IRRC #2506), Higher Education General Provisions, to be voted upon at the Commission's Public Meeting on June 1, 2006. Our comments recommend changing the proposed regulation to conform with state and federal law for individuals with disabilities.

First, Section 31.33(b)(7) is currently proposed as:

"(b) There shall be a program of student services to provide for the following:

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(7) Reasonable accommodation for students with special needs in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101-12213) and with 34 Pa. Code Chapter 47, subchapter D (relating to facilities for handicapped)."

We strongly support this new requirement of student services for students with disabilities. To more fully and accurately reflect the broad range of remedies available to students with disabilities, though, we suggest the following language:

A legal backup center to Pennsylvania Protection & Advocacy Inc.

(7) Equal education opportunity, such as reasonable accommodation, effective communication, auxiliary aids and services, and removal of architectural barriers, for students with special needs, in compliance with the Americans with Disabilities Act (42 U.S.C. §§ 12101-12213) and its implementing regulations; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and its implementing regulations; 34 Pa. Code Chapter 47, Subchapter D (Facilities For Handicapped) (34 Pa. Code §§ 47.111-47.131); the Pennsylvania Human Relations Act (43 P.S. §§ 951-963) and its implementing regulations; and all other applicable federal and state laws and regulations.

Second, Section 31.43 is currently proposed as:

“§ 31.43. Buildings and equipment.  
Classrooms, laboratories, faculty offices, related academic buildings, student living facilities and recreational facilities are governed by 34 Pa. Code Chapter 47, Subchapter D (relating to Department of Labor and Industry—miscellaneous provisions—facilities for handicapped), and Chapters 49—59, and [shall] must be adequate to provide an integrated academic and nonacademic program consistent with the stated objectives of the institution as related to its statements of philosophy, mission and need.”

To more fully and accurately reflect the legal obligations of higher education institutions to avoid and remove architectural barriers for persons with disabilities, we suggest the following language instead:

Classrooms, laboratories, faculty offices, related academic buildings, student living facilities and recreational facilities are governed by the Americans with Disabilities Act (42 U.S.C. §§ 12101-12213) and its implementing regulations; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and its implementing regulations; 34 Pa. Code Chapter 47, Subchapter D (Facilities For Handicapped) (34 Pa. Code §§ 47.111-47.131); the Pennsylvania Human Relations Act (43 P.S. §§ 951-963) and its implementing regulations; and all other applicable federal and state laws and regulations, and shall be adequate to provide an integrated academic and nonacademic program consistent with the stated objectives of the institution as related to its statements of philosophy, mission and need.


Independent Regulatory Review Commission  
May 26, 2006  
Page Three

We thank you for the opportunity to comment on the proposed regulations and for your consideration of our comments.

Sincerely,



Mark Murphy, Esquire  
Disabilities Law Project/Pennsylvania Protection & Advocacy



Len Rieser, Esquire  
Education Law Center

cc: State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333