

Quality & Fairness in  
Pennsylvania's Public Schools

# EDUCATION LAW CENTER

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#2520

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

March 17, 2008

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Kim Kaufman, Executive Director  
Pennsylvania Independent Regulatory Review Commission  
Pennsylvania Department of Education  
333 Market Street  
Harrisburg, PA 17126

RE: Chapter 339 – IRRC #2520

Dear Mr. Kaufman:

I write on behalf of the Education Law Center (ELC) and the Disability Rights Network (DRN) to urge the Commission to approve the above regulations at its April 17, 2008 meeting. ELC is a non-profit legal advocacy organization dedicated to improving educational opportunities and outcomes for children most at risk of school failure – which includes students with disabilities. DRN is the organization designated by the Governor pursuant to the federal Development Disabilities Act to protect and advocate for persons with disabilities.

Chapter 339 is intended to govern Pennsylvania's career and vocational education programs. Over the years, ELC and DRN have worked to expand vocational options for students with disabilities. For some students with disabilities who do not perform well academically, vocational education is their best shot at acquiring the skills needed to be self-sufficient and self-supporting when public education ends. Ironically, many of these youngsters have had great difficulty getting admitted to vocational programs, participating in a variety of vocational options, and getting the supports they need to succeed.

Several years ago ELC and DRN filed a class action lawsuit against a vocational education school in Bucks County. That lawsuit was successfully settled, and the implementation of the consent decree went smoothly. However, we continued to receive complaints that students in other schools and counties were experiencing difficulties.


Chapter 339 presents an opportunity to spread the reforms started in Bucks County statewide. To their credit, the Pennsylvania Department of Education has been extremely open to this opportunity to protect and support students with disabilities in vocational education programs. The proposed regulations would ensure the following important protections:

- When enrollment is limited, students can be admitted based on a prediction of success in the program. But for students with disabilities, success should be predicted by the IEP team “on the basis of his or her ability to benefit from the program.” State funding shall depend on, among other things, evidence that non-discriminatory written admissions policies exist, are publicized, and are effective. §§ 339.21, 339.57(A)(4)
- Programs must show the Department of Education evidence that supports, services, and accommodations in accordance with IEPs and service agreements will be available to students with disabilities in academics and in support of vocational programs. § 339.4(b)(7), (8).
- If students with IEPs or service agreements are recommended for placement in vocational programs, faculty from the recommended vocational program must participate as members of the IEP or service agreement teams. The school district must timely notify the vocational and technical education representative who must attend the team meeting. § 339.21(5), (6).
- Schools cannot counsel students with disabilities towards more restrictive career objectives than students without disabilities with similar abilities and interests. Counselors cannot direct or urge a student to enroll in a particular career or program, or measure or predict a student’s prospects for success in any career or program, based on the student’s disability.  
§ 339.32

We urge the IRRC to pass these regulations. Chapter 339 will go far towards fixing this longstanding problem and will give students with disabilities a far better chance of securing the vocational and academic skills they need.

Thank you,

  
Janet F. Stotland  
Co-Director  
Education Law Center

  
Rachel Mann  
Senior Staff Attorney  
Disability Rights Network