

Regulatory Analysis Form

This space for use by IRRC

RECEIVED

2006 JUN -2 PM 2:01

INDEPENDENT REGULATORY
REVIEW COMMISSION

IRRC Number:

2543

(1) Agency
State Board of Education

(2) I.D. Number (Governor's Office Use)

006-301

(3) Short Title

Academic Standards and Assessment, Student Attendance, and Students and Student Services

(4) PA Code Cite

22 Pa. Code Chapters 4, 11, and 12

(5) Agency Contacts & Telephone Numbers

Primary Contact: Jim Buckheit

(717)787-3787

jbuckheit@state.pa.us

Secondary Contact: Linda Warren

(717) 346-4036

liwarren@state.pa.us

(6) Type of Rulemaking (check one)

Proposed Rulemaking

Final Order Adopting Regulation

Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

No

Yes: By the Attorney General

Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

Chapters 4, 11, and 12 address state academic standards and assessment, student attendance, and students and student services in the Commonwealth's public schools. The proposed changes add new provisions that address programming for three and four-year-olds through pre-kindergarten programs operated in public schools or in community agencies under contract from a school district. The proposed regulations provide a structure and framework for these programs that is consistent with that provided for elementary and other levels of education offered in the public schools.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Act of March 10, 1949, P.L. 30, No. 14, §26-2603-B, added by the Act of March 30, 1988, P.L. 321, No. 43.

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

These regulations are not mandated by law, court order or regulation. The enabling statute for the State Board of Education requires it to: "adopt broad policies and principles, and establish standards governing the education program of the Commonwealth" (24 P.S. § 26-2603-B (a)).

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

This Commonwealth currently invests more than \$10 million in early childhood education pre-kindergarten programs in its public schools. There are currently no regulations in place that set standards for these programs. Pre-kindergarten programs are voluntary on the part of school districts and, if offered, parents are not required to enroll their children in the program. These regulations establish minimum standards based on research about best practices and the framework necessary to deliver high quality educational services to three and four year olds. The regulations are consistent with the existing policies and standards of the Board and Department of Education for elementary and secondary education. The regulations will to ensure that taxpayer investments in pre-kindergarten programs will return the best possible educational outcomes by instituting best practices and standards for these programs.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Research on early childhood programs clearly demonstrates that programs of high quality have a meaningful impact on school readiness and long-term academic success. Non-regulation could result in pre-kindergarten programs of uncertain quality. Such programs would not maximize opportunities for positive educational outcomes or use the best use of the investment of taxpayer dollars.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Currently, about 10,000 of pre-kindergarten-age children participate in the Commonwealth's public school pre-kindergarten programs and will benefit from the instructional, support and administrative services provided by a framework based on best practices for high quality programming for young children. If fully implemented, over time, there could be as many as 200,000 three and four-year-olds in the state benefiting from these programs. The Commonwealth as a whole will benefit fiscally as it derives long term benefits and cost savings that accrue from ensuring that children are academically, socially, and emotionally ready for school when they begin kindergarten or first grade.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No adverse effect is anticipated. These regulations maintain the already existing appropriate high program standards that have guided implementation of programs through the Accountability Block Grant and, to some degree, the kindergarten for 4-year-olds program. The proposed requirement that teacher aides be highly qualified is consistent with federal requirements under the No Child Left Behind Act, which already pertain to the majority of existing programs and to schools that are expected to implement pre-kindergarten programs in the future. Survey research conducted by the Department of Education shows that over two-thirds of the teacher aides current employed in pre-kindergarten classrooms already meet this standard.

One school district may need to modify its pre-kindergarten program or request a waiver in order to comply with these requirements. Increased requirements for para-professionals may result in the reassignment or need for additional training.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

These regulations directly effect the approximately 10,000 children in 71 school districts who are enrolled in pre-kindergarten programs, their families who will have the benefit of high quality education for their pre-school-age youngsters, approximately 1,000 school district employees who teach in pre-kindergarten classrooms, community providers of pre-kindergarten programs that currently or may in the future provide pre-kindergarten services under contract with a school district, and school district personnel who engage in strategic and program planning in the school districts that offer pre-kindergarten.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

A newly established Early Childhood Committee of the Council of Basic Education held three-regional public roundtable meetings where interested parties were invited to identify issues and to make recommendations to the committee. The committee also held regional public hearings at two different stages in the development of the proposed changes to the regulations where interested parties delivered formal testimony. The committee's regular meetings over a period of close to two years were open to the public where interested parties provided additional comments throughout the development of the proposed regulations. Meetings with various stakeholders were also held throughout the development of the regulations. Various drafts of the regulations were provided upon request to interested parties and were posted on the State Board of Education web page. Key stakeholders providing input to the State Board include: Pennsylvania Association of School Administrators, Pennsylvania School Board's Association, Pennsylvania State Education Association, Pennsylvania Federation of Teachers and Pennsylvania Association of Colleges and Teacher Educators, the Education Law Center, the Pennsylvania Partnership for Children, the Pennsylvania Head Start Association, the Please Touch

Regulatory Analysis Form

Museum, the Governor's Commission on Children and the Family, Elywan, Inc., Children's Village, Philadelphia Citizens for Children and Youth, Special People in Northeast, Inc., the Harrisburg School District, the Philadelphia School District, the PA Child Care Association, Community Services for Children, the YWCA of Greater Erie, Intermediate Unit # 5, the Barber Institute, the Erie Family Center, the Allegheny Conference on Community Development, Tyrone Area School District, Bellefonte School District, Conemaugh Valley School District, Altoona IU # 8, and representatives from nearly 10 different colleges and universities in the state.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Pre-kindergarten is a voluntary offering on the part of school districts and not required. Since these regulations are consistent with existing program grant standards for the Accountability Block Grant programs already funded through that program schools will already comply with the regulations. Therefore, the incurrence of any operating program costs are at the discretion of the school district and its elected Board of Directors. Complying with these proposed regulations will not add costs beyond those necessary to regular program operation.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Since these regulations largely reflect existing practices for programs that are voluntary through the Accountability Block Grant costs associated with compliance will be negligible. Over time, compliance with these requirements will create cost savings to both school districts and the Commonwealth in general, as demonstrated by cost benefit analysis conducted by Dr. Clive R. Belfield for the Department of Education showing that high quality pre-kindergarten programs can provide a return of \$1.12 for every \$1 invested in pre-kindergarten in Pennsylvania with reduced special education placements. Additional dollars will be saved as retentions go down and remediation needs are diminished. These are the anticipated benefits as more students enter kindergarten well prepared and do not fall behind in academic achievement.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

State government will not incur additional costs since the program standards for pre-kindergarten programs already exist as program application guidelines for the Accountability Block Grant program.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	0	0	0	0	0	0
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs	0	0	0	0	0	0
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government					0	
Total Revenue Losses	0	0	0	0	0	0

(20a) Explain how the cost estimates listed above were derived.

The Accountability Block Grant supports the cost of pre-kindergarten programs. It is currently is funded at \$200 million. Governor Rendell has requested that the appropriate be increased to \$250 million in fiscal 2006-07. \$10.0 million of the \$200 million is currently being used by school districts to support pre-kindergarten programs. Since these programs already meet the requirements contained in the proposed regulations, they are not expected to incur additional costs, savings or revenue loss to the regulated community, local government or state government.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Accountability Block Grant	0	0	\$200 million	\$200 million

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The proposed regulations will help ensure that programs are of high quality and that the potential benefits of a pre-kindergarten experience will be provided to children in the Commonwealth. They will be better prepared for academic achievement in school and consequently benefit the taxpayers of the Commonwealth.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The Department of Education has already used non-regulatory alternatives to address many of the requirements proposed in these regulations. The Department has issued guidance to schools on implementation of pre-kindergarten program supported by the Accountability Block. These same guidelines are included in criteria for applicants seeking low interest loans from the Early Childhood Capital Investment Fund. Since the Department's guidance does not have binding legal authority, the proposed regulations are needed to ensure that all pre-kindergarten programs operated by school districts use the broadly accepted standards for high quality and best practices reflected in these proposed regulations.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The continuation of reliance on non-regulatory guidance creates an uncoordinated and uneven system of early education and care at a time of needed program expansion to insure that all children are ready for success in school. A growing investment of fiscal resources in early childhood education requires additional efforts to ensure that those resources are spent in ways that will maximize program success for the children enrolled. Providing clarity for school districts that want to offer pre-kindergarten programming will assist them in the planning process and giving consideration to the range of program options appropriate for high quality pre-kindergarten.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

The federal No Child Left Behind Act of 2001 requires that teachers in Title I schools must meet the highly qualified teacher requirements and that para-professionals meet the highly qualified para-professional requirements in schools receiving Title I funds. The proposed regulations are aligned with these requirements.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

These proposed regulations align with the laws, regulations, policies and practices of the other states that support early childhood education and will not put the Commonwealth at a competitive disadvantage. Rather the benefits resulting from these programs will enhance the Commonwealth's competitive position.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

These proposed regulations are aligned with existing and proposed regulations for education programs at the kindergarten through 12th grade levels. Proposed amendments to Chapter 4 were previously published by the Board in the Pennsylvania Bulletin on November 5, 2005. These proposed regulations supplement those proposed revisions by adding regulations that address pre-kindergarten programs. The proposed regulations build upon the current regulations already in place for elementary and other levels of education in the public schools.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Early Childhood Committee of the State Board of Education held several public meetings over nearly a two-year period to seek stakeholder input in developing these regulations. Committee meetings were held in: July, 2004; September, 2004; November, 2004; January, 2005; March, 2005; May 2005; June, 2005; September, 2005; November, 2005; January, 2006; and March 2006. Round table discussions were held with interested members of the public in Erie, Altoona, and Philadelphia in October, 2005. Public hearings were held in Harrisburg, Allentown, and Pittsburgh in October, 2005. Additional hearings were held in January 2006 in Harrisburg and Norristown. Opportunities for stakeholders to provide comment was also available during the public comment period at the Council of Basic Education meeting held on March 15, 2006 and the State Board of Education meeting held on March 16, 2006 prior to either body taking action on the proposed regulation.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

These proposed regulations will add pre-kindergarten to the strategic planning requirements and be incorporated as revisions already being made to documents and electronically available tools developed and provided by the Department of Education using existing resources.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The entire set of proposed regulations was developed to address the unique learning needs of children 3 and 4 years of age. Within this population the provisions contained in §§4.13(12)(i), 4.13(12)(iii), 4.133(16), 4.13(17), 4.13(18), 4.20(c), 40.20(j), 11.9, and 12.1(c) specifically address program requirements for children who are ages 3 and 4 who have disabilities. In addition, §4.20(c) specifically addresses program requirements for children who are ages 3 and 4 who are at risk of school failure due to limited English proficiency, community factors or economic disadvantage.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

Effective upon final publication in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

It is the policy and practice of the State Board of Education to normally review its regulations every four years.

RECEIVED

2006 JUN -2 PM 2:01

INDEPENDENT REGULATORY
REVIEW COMMISSION

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

2543

Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.

[Signature]

[Signature]
DAVID J. DEVERIES

BY: _____
(DEPUTY ATTORNEY GENERAL)

PA State Board of Education
(AGENCY)

MAY 23 2006

DOCUMENT/FISCAL NOTE NO. #006-301

DATE OF ADOPTION: March 16, 2006

MAY 05 2006

DATE OF APPROVAL

DATE OF APPROVAL

BY: *[Signature]*

~~EXECUTIVE~~
Deputy General Counsel
(Chief Counsel
Independent Agency)

(Strike inapplicable title)

TITLE: **Executive Director**
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[] Check if applicable
Copy not approved.
Objections attached.

[] Check if applicable.
No Attorney General approval
or objection within 30 days
after submission.

PROPOSED REGULATION
COMMONWEALTH OF PENNSYLVANIA

22 PA. CODE, CH.4 (Curriculum),
CH. 11 (Student Attendance) and
CH. 12 (Student & Student Services)
PRE-KINDERGARTEN

Proposed Regulations
PREAMBLE
STATE BOARD OF EDUCATION
[22 PA. CODE CHS. 4, 11 AND 12]
Academic Standards and Assessment
Student Attendance
Students and Student Services

The State Board of Education (Board) proposes to amend Chapter 4 (relating to academic standards and assessment), Chapter 11 (relating to student attendance) and Chapter 12 (relating to students and student services) to read as set forth in Annex A. The Board acts under the authority of the Public School Code of 1949 (Code) (24 P. S. §§ 1-101--27-2702), including section 2603-B of the Code (24 P. S. § 26-2603-B).

Purpose

The proposed revisions to Chapters 4, 11 and 12 establish standards for pre-kindergarten programs that are operated by school districts or contracted by school districts with community providers. Pre-kindergarten programs are voluntary programs operated by many school districts for children between three and four years of age. Parents are not required to enroll their children in pre-kindergarten programs.

The Commonwealth and its school districts invest millions of taxpayer dollars each year to operate pre-kindergarten programs. It is critical that these resources be used to help prepare children to be fully prepared for school enrollment through high quality educational experiences. These proposed regulations, together with others being considered by the Board, would assure that these investments would have maximum educational benefit.

Requirements of the Regulations

The proposed amendments to Chapter 4 would add a new definition of *pre-kindergarten*; address new requirements for strategic planning, curriculum and instruction and the scheduling and learning options for pre-kindergarten programs. The proposed revisions to Chapter 4 also include a provision that would permit the Secretary of Education to approve meritorious programs that do not meet all of the regulatory requirements.

The proposed amendments to Chapter 11 address the minimum required hours for pre-kindergarten and the school term and instructional time for pre-kindergarten programs. Language in the proposed regulation also would provide flexibility to school districts to make exceptions to the enrollment requirements.

The proposed amendments to Chapter 12 address student services for pre-kindergarten students and would allow for exceptions to the pre-kindergarten enrollment requirements.

The Board previously published proposed revisions to Chapter 4 in the November 5, 2005 edition of the *Pennsylvania Bulletin* (35 Pa.B. 6107). The Board is currently considering comments received in response to those proposed revisions. Revisions to § 4.3 (relating to definitions) and § 4.13 (relating to strategic planning) are proposed in the previously published version of Chapter 4. The proposed revisions to §§ 4.3 and 4.13 included in this proposal update and replace the proposed language to these sections published on November 5, 2005.

Interested individuals and organizations should carefully review the definition of pre-kindergarten contained in § 4.3 and strategic planning requirements in § 4.13 as they reflect the Board's latest proposal. The Board intends to delete the definition contained in § 4.3 and strategic planning language contained in § 4.13 that were proposed in the November 5, 2005 version when the regulation is submitted for final approval and publication.

Specific changes to the regulations in this proposed rulemaking include the following:

§ 4.3. *Definitions.* A new definition of pre-kindergarten would be added. This definition is different from the version that was published in the November 5, 2005 edition of the *Pennsylvania Bulletin*.

§ 4.13. *Strategic plans.* Proposed revisions to this section published in the November 5, 2005 edition of the *Pennsylvania Bulletin* are repeated here. However, subsections (c)(17) and (c)(18) are would be added to the section and revisions from the previously published version would be made to subsections (c)(12), (c)(16) and (d).

§ 4.20. *Pre-kindergarten education.* A new section would be added to address program requirements for pre-kindergarten programs. The regulation would make clear that school districts are not required to offer a pre-kindergarten and that parents are not required to enroll their children in such programs if offered. The regulation also would provide the Secretary of Education authority to approve a meritorious pre-kindergarten program that does not meet all regulatory requirements when in the Secretary's judgment the program provides high quality learning opportunities and meets the conditions listed.

§ 4.41. *Scheduling.* The proposed regulation would provide that school districts are not required to obtain Department approval of one-half day pre-kindergarten programs. The proposed amendment to the section also would provide that pre-kindergarten programs must provide at least 2 ½ hours of instruction unless the school district should obtain approval of the Department of Education to deviate from that standard.

§ 11.1. *School Term.* Pre-kindergarten programs would be added to the requirements for minimum number of days and hours of instruction.

§ 11.3. *Minimum required hours.* This section would be amended to place the same minimum hourly requirements on pre-kindergarten programs that already exist for kindergarten programs.

§ 11.8. *Definitions.* This section would be amended to add a paragraph (x) to the list of activities that may be counted as instructional time. Also, the section would be amended to add a definition of pre-kindergarten.

§ 11.9. *Pre-kindergarten exception.* A new § 11.9 would be added that would permit school districts to make exceptions to the age requirements for pre-kindergarten programs.

§ 12.1. *Free education and attendance.* A new subsection (c) would be added to permit school districts to make exceptions to the age requirements for enrollment.

§ 12.16. *Definitions.* A definition of pre-kindergarten would be added.

§ 12.41. *Student services.* Subsection (a) would be amended to add a requirement that the pre-kindergarten program be addressed in the school district strategic plan. Subsection (b)(1) would be amended to require that for pre-kindergarten students the school district's student services program include nutritional services or referrals.

§ 12.42. *Student assistance program.* Section 12.42 would be amended to make a technical correction to a statutory reference unrelated to the proposed pre-kindergarten regulations.

Affected Parties

The proposed rulemaking would affect the students and professional employees of the public schools in this Commonwealth.

Cost and Paperwork Estimates

Since these regulations are consistent with existing program grant standards for pre-kindergarten programs supported through the Accountability Block Grant program schools will already be in compliance with these regulations. Therefore, the incurrence of any additional operating program costs beyond those specified in the regulations will be at the discretion of the school district and its elected Board of Directors. Complying with these proposed regulations will not add costs beyond those necessary to regular program operation.

Effective Date

The proposed rulemaking would become effective upon publication of final-form regulations in the *Pennsylvania Bulletin*.

Sunset Date

The In accordance with the Board's policy and practice respecting all regulations, the Board will review the effectiveness of Chapters 4, 11 and 12 after four years. Thus, no sunset date is necessary.

Regulatory Review

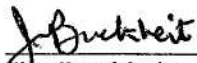
Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 2, 2006, the State Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Education. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comments and Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333 within 30 days following publication in the *Pennsylvania Bulletin*.

Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling Jim Buckheit at (717) 787-3787 or TDD (717) 787-7367



Jim Buckheit,
Executive Director

CHAPTER 4. ACADEMIC STANDARDS AND ASSESSMENT

GENERAL PROVISIONS

CURRICULUM AND INSTRUCTION

4.20. Pre-kindergarten education.

GENERAL PROVISIONS

§ 4.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Pre-Kindergarten – A program operated by a school district or by a community agency under contract from a school district that is open to children who are at least three years of age and completed prior to the school district's entry age for kindergarten.

§ 4.13. Strategic plans.

(c) The strategic plan shall be based upon an analysis of internal and external needs, leading to the specifications of priorities for action and action plans. The analysis of needs and the specifications of priorities shall address student achievement; the school entity's core purpose; the quality of teaching and learning; the quality of leadership; the use of infrastructure; and continuous professional learning and education. The requirement in subsections (a) and (b) to develop plans every 6 years and revisions every 3 years does not limit a school [district's (including charter schools) or AVTS's] entity's ability to conduct a continuous strategic planning process. 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. The plan shall include the following components in addition to others the school [district (including charter schools) or AVTS] entity determines to include:

- (1) A mission statement.
- (2) A listing of the school district's (including charter schools) or AVTS's educational and organizational goals as they relate to student achievement and high school graduation requirements.
- (3) A description of academic standards for student achievement which shall be consistent with those under § 4.12 (relating to academic standards).
- (4) The planned instruction to be offered and the instructional and assessment practices 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 (relating to high school graduation requirements).
- (5) An assessment plan under § 4.52 (relating to local assessment system) to determine the degree to which students are achieving academic standards under paragraph (3) including descriptions of methods and measures used to determine achievement, how information from the assessments shall be used to assist students who have not demonstrated attainment of the academic standards at a proficient level or higher and how information from the assessments shall be made available to the public.
- (6) A plan for improving students' achievement, including specific, measurable goals for student growth and plans (including those listed in this section) that are designed to attain students' achievement goals. Achievement goals shall demonstrate a connection to the academic standards under § 4.12 including but not

limited to annual improvement goals for student scores on State and local assessments.

(7) The professional development plan under section 1205.1 of the School Code (24 P. S. § 12-1205.1) and § 49.17 (relating to continuing professional development) and the induction plan under § 49.16 (relating to approval of induction plans).

(8) A description of the school district's (including charter schools) or AVTS's organization and organizational goals and their relationship to differing student needs within the school district's (including charter schools) or AVTS's goals under paragraph (2) and the attainment of academic standards under paragraph (3).

(9) A description of the professional personnel, school library, classroom and other resources the school district (including charter schools) or AVTS plans to devote to the attainment of academic standards.

(10) A brief description of the process used to develop the strategic plan, including a list of persons involved in its development.

(11) A plan for additional instructional opportunities for students not achieving at the proficient level including identification procedures, alternate instructional strategies, monitoring of assessment procedures and opportunities for extended learning time.]

(1) Core purpose. A summary of the school entity's mission statement, educational vision and shared values.

(2) Results for students. A listing of the school entity's educational and organizational goals as they relate to student achievement including high school graduation requirements and for having students meet or exceed proficiency levels established for State academic standards in § 4.12 (relating to academic standards).

(3) Academic standards. A description of academic standards for student achievement, which must be consistent with those under § 4.12.

(4) Measurable annual improvement targets. A plan for improving students' achievement, including specific, measurable goals for student growth and plans (including those listed in this section) that are designed to attain students' achievement goals. Achievement goals shall demonstrate a connection to the academic standards under § 4.12, including, but limited to, annual improvement goals for student scores on State and local assessments.

(5) Curriculum, instruction and instructional materials. A plan for providing all students access to a rigorous education program, including: curriculum that is aligned to the academic standards; the planned 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 (relating to high school graduation requirements).

(6) *Assessments and public reporting.* An assessment plan that describes the local assessment system as required under § 4.52 (relating to local assessment system), including methods and measures used to determine the degree to which students are achieving academic standards under paragraph (3). The plan must include descriptions of methods and measures used to determine achievement; how information from the assessments shall be used to assist students who have not demonstrated attainment of the academic standards at a proficient level or higher; how all students as well as significant student subgroups are achieving as compared to the standards and annual improvement targets; and how information from the assessments shall be made available to the public and the parents or guardians of each student. This plan must address how assessment data, including value-added assessment data provided under § 403.3(d)(1)(iii) (relating to assessments), is shared with and used by district-level administrators, school administrators and professional educators to change instructional practice in order to address the learning needs of students.

(7) *Targeted assistance for struggling students.* A plan for additional instructional opportunities for students not achieving at the proficient level, including identification procedures, alternative instructional strategies, monitoring of assessment procedures and opportunities for extended learning time (including tutoring). This plan must describe how grade-level learning plans for students who have not achieved proficiency in reading and mathematics during their primary grades (K--3) under § 4.21(j) (relating to elementary education: primary and intermediate levels) have been implemented and specify the instructional opportunities for students who have not achieved proficiency in reading and mathematics by the end of grade 5 under § 4.21(k).

(8) *Qualified, effective teachers and capable instructional leaders.* A description of the school entity's goals, strategies and performance measures regarding provision of teachers and school leaders designed to ensure that all students attain the academic standards at a proficient level or higher. This description must specifically address how the school entity deploys its most effective and highly qualified teachers to meet the learning needs of students who are below proficiency or are at risk of not graduating.

(9) *Continuous professional education.* A professional education plan, including:

(i) Requirements under section 1205.1 of the School Code (24 P. S. § 12-1205.1) and § 49.17 (relating to continuing professional education).

(ii) The induction plan under § 49.16 (relating to approval of induction plans).

(iii) Professional education programs linked to the academic standards under § 49.12.

(iv) How to promote professional collaboration regarding continuous improvement of instruction and student achievement.

(10) Organization and goals. A description of the school entity's organization and organizational goals and their relationship to differing student needs within the school entity's goals under paragraph (2) and the attainment of academic standards under paragraph (3).

(11) Utilization of resources. A description of 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 and other resources available to the school entity.

(12) Parent and community participation. A description of the school entity's approaches for involving:

(i) Parents or guardians, including those of children with disabilities.

(ii) Community groups.

(iii) Representatives of Infants and Toddlers, Early Intervention Pre-school programs, early childhood representatives (for example, community providers of early childhood education, pre-kindergarten programs, and early childhood researchers).

(iv) Business.

(v) Institutions of higher education.

(vi) Other parent and community representatives as appropriate.

(13) Support for struggling schools. A description of the school district's or area vocational technical school with multiple campuses' process for assisting schools that do not meet the annual student achievement improvement targets and school experiencing other challenges that deter student attainment of the academic standards at a proficient level or higher.

(14) Milestones of progress. A listing of the specific goals, tasks and initiatives that must be accomplished by a specified date within each year of the planning cycle. The goals, tasks and initiatives must be derived from the priorities described in the strategic plan, as locally appropriate benchmarks that ensure consistent monitoring and midcourse correction.

(15) Planning process. A brief description of the process used to develop the strategic plan, including a list of persons involved in its development.

(16) Coordination with other programs. A description of how the school district will accomplish coordination with community operated Infant and Toddlers and Preschool Early Intervention Programs and the following before or after school programs and services for all grade levels, including prekindergarten, if offered, through 12:

(i) Child care.

(ii) After school programs.

(iii) Youth workforce development programs.

(iv) Tutoring.

(17) Pre-kindergarten program. A school district that offers pre-kindergarten shall describe the pre-kindergarten program and explain how the district will coordinate with agencies that serve preschool age children with disabilities. The plan shall address coordination activities designed to identify and serve children with disabilities and the supports and accommodations available to ensure both physical and programmatic access. The plan shall address pre-kindergarten programs operated directly by the school district and those operated by community agencies under contract from the school district.

(18) Transition to pre-kindergarten and from pre-kindergarten to school-aged programs. A brief description of how the school district will provide for a smooth transition for pre-kindergarten students, when pre-kindergarten is offered, from the home setting and any early childhood care or education setting such students attend, to the school setting. This description shall include how the district will coordinate with the Infants and Toddlers and Pre-School Early Intervention agencies that serve children with disabilities to ensure a smooth transition for such children to the school district's pre-kindergarten program.

(d) Strategic plans, the 6-year plan, mid-term review report, annual updates and all other revisions to the plan, shall be developed through active participation by parents, students, school directors, teachers from pre-kindergarten and pre-school early intervention programs, elementary schools, middle/junior high schools, senior high schools and AVTS, educational specialists (for example, school nurses, guidance counselors), school administrators, other school personnel, and business and community representatives. Teacher representatives shall be chosen by teachers[, and]; educational specialists shall be chosen by educational specialists; administrative representatives shall be chosen by the administrative personnel[,]; and school director representatives shall be chosen by the board of the school district or AVTS.

CURRICULUM AND INSTRUCTION

§ 4.20. Pre-kindergarten education.

School districts are not required to offer a pre-kindergarten program, and parents are not required to enroll their children in such programs if offered. Pre-kindergarten programs shall be designed so that students complete the program prior to their reaching the school district's entry age for kindergarten. The program, when offered, shall provide a comprehensive program appropriate for the age, developmental level, and individual needs of each child, based on how young children develop and learn, and shall include instruction to support each child's development in the following areas: approaches to learning; creative expression; language and literacy; math, logic and science; social-personal development; and physical development and health. Such programs shall be open to children with disabilities.

(a) The Secretary shall provide academic standards, appropriate for early learning at the pre-kindergarten level, as guidance for the use of school districts that offer pre-kindergarten programs.

(b) Curriculum and instruction in the pre-kindergarten program shall be standards-based.

(c) Pre-kindergarten programs may be offered to all three and four year olds or may be targeted to children who are most in need of pre-kindergarten services who reside in the district. Targeted programs may serve children who are at risk of school failure because of limited English proficiency, community factors, economic disadvantage, but may not exclude or be limited exclusively to children with disabilities. If a program is limited to an attendance area, children with disabilities must live in that attendance area in order to participate in the program.

(d) The Secretary shall issue guidance to school districts on developmentally appropriate curriculum, instruction and assessments for pre-kindergarten.

(e) Each school district that provides pre-kindergarten shall design an assessment system that includes pre-kindergarten and uses a variety of assessment strategies, which may include those listed in § 4.52(d) (relating to local assessment system), as appropriate.

(f) Pre-kindergarten programs shall have a student/teacher ratio of no more than 20 students for one teacher and one teacher aide in a classroom (2 adults in a classroom for every 20 students). Programs of high quality ordinarily have a student/teacher ratio of 17 students for one teacher and one teacher aide in a classroom (2 adults for every 17 students). Programs operating under contract with community providers shall comply with staffing qualifications as required by § 49.85(c) (relating to limitations).

(g) Teacher aides in pre-kindergarten programs.

Beginning in the 2009-2010 school year, a teacher aide in a pre-kindergarten program must meet one of the following criteria:

- (i) Completion of a least two years of postsecondary study;
- (ii) Possession of an associate's degree or higher; or
- (iii) Ability to meet a rigorous standard of quality and demonstration through a formal state or local academic assessment of knowledge in and ability to assist in instructing reading, writing, and mathematics.

(h) The Secretary may approve a meritorious pre-kindergarten program that does not meet all regulatory requirements for such programs including, but not limited to days and hours of operation, when in the Secretary's judgment the program provides high quality learning opportunities for students and meets the following conditions:

- (i) The school district has submitted to the Secretary a written request that provides justification for the waiver or waivers and includes a description of how the meritorious program will provide high quality learning opportunities for students.
- (ii) The written request includes a timeline for bringing the program into full compliance with pre-kindergarten program requirements.
- (iii) The approval of the meritorious pre-kindergarten program is valid only for one school year.
- (iv) Requests for renewals include evidence of positive student outcomes.

(i) A school district may make individual exceptions to the age of pre-kindergarten students based upon local policy in order to permit the enrollment of children under age 3 and over age 5.

(j) A school district planning to offer or contract with a community agency to offer a pre-kindergarten program shall develop an implementation plan that describes the program and its target population consistent with § 4.20(c). The plan shall identify

the facilities, staffing needs and other resources that it will use to deliver the program. In years subsequent to the initial year of the program, the implementation plan shall become part of the strategic plan described in § 4.13 (relating to strategic plans) and included in the mid-term review and annual updates described in § 4.13.

SCHEDULING AND LEARNING OPTIONS

§ 4.41. Scheduling.

(a) Kindergarten programs shall provide each kindergarten student with at least 2 1/2 hours of instruction each day for the full school term unless the school district, including charter schools, obtains prior Department approval for an alternative kindergarten program.

(b) A school district, including charter schools, shall obtain approval of the Department prior to scheduling 1/2-day sessions other than in kindergarten under subsection (a). A school district is not required to obtain approval of the Department prior to scheduling one-half day sessions for pre-kindergarten under subsection (e).

(c) A school district shall obtain approval of the Department prior to establishing a new school or changing school organization.

(d) Planned instruction offered in summer school may be designed as credit or noncredit offerings.

(e) School districts with pre-kindergarten programs shall provide pre-kindergarten students with at least 2 ½ hours of instruction each day for the full school term unless the school district obtains prior Department approval for an alternative pre-kindergarten program.

CHAPTER 11. STUDENT ATTENDANCE

GENERAL PROVISIONS

Sec.

11.9 Pre-kindergarten exception.

§ 11.1. School term.

Public pre-kindergartens, when offered, and kindergartens, elementary and secondary schools shall be kept open each school year for a minimum of 180 days of instruction for students. Days may not be counted as days taught on which the schools are closed, and time may not be counted as a student session for an activity to which admission is charged. However, when a meritorious educational program warrants, the Secretary may, upon request, approve a school term containing a minimum of 990 secondary or 900 elementary and 450 kindergarten hours of instruction as the equivalent of 180 school days.

§ 11.3. Minimum required hours.

(a) Minimum hours of instruction time students shall be as follows:

Grade	Hours
<u>Pre-K - K</u>	2 hours, 30 minutes, each day of the school term

§ 11.8. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Instructional activities—The term includes the following:

(x) **Pre-kindergarten or [K]kindergarten** orientation, snack-time and play-time if they are an integral part of the curriculum.

Pre-kindergarten – A program operated by a school district or by a community agency under contract from a school district that is open to children who are at least three years of age and completed prior to the school district's entry age for kindergarten.

11.9 Pre-kindergarten exception.

A school district may make individual exceptions to the age of pre-kindergarten students based upon local policy in order to permit the enrollment of children under age 3 and over age 5.

CHAPTER 12. STUDENTS AND STUDENT SERVICES

STUDENT RIGHTS AND RESPONSIBILITIES

§ 12.1. Free education and attendance.

(c) For a pre-kindergarten program defined in § 12.16 (relating to definitions) as a program for children who are at least three year olds and completed prior to the school district's entry age for kindergarten, a school district may make individual exceptions to the age of pre-kindergarten students based upon local policy in order to permit the enrollment of children under age 3 and over age 5.

§ 12.16. Definitions.

Pre-Kindergarten – A program operated by a school district or by a community agency under contract from a school district that is open to children who are at least three years of age and completed prior to the school district's entry age for kindergarten.

§ 12.41. Student Services.

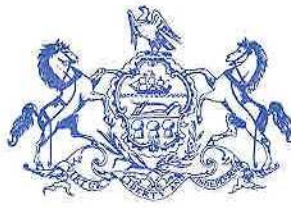
(a) Each school entity shall prepare a written plan for the implementation of a comprehensive and integrated K-12 program of the student services based on the needs of its students. The plan shall be prepared and revised in accordance with the timeframes and procedures described in §§ 4.13(a), (b), (d), (e) and (f) (relating to strategic plans). Services offered by community agencies in public schools shall be coordinated by and under the general direction of the school entity. The plan shall include policies and procedures for emergency care and administration of medication and treatment under The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144) and guidelines issued by the Department of Health. The Department of Health guidelines are available from the Division of School Health, Department of Health, P.O. Box 90, Harrisburg, Pennsylvania 17108. **A school district that operates a pre-kindergarten program shall address its pre-kindergarten program in its strategic plan.**

(b) Though the variety of student services offered will differ from school to school depending upon its size and the needs of its students, the following categories of services shall be provided by each school, entity in planning its student services:

(1) Developmental services for students that address their developmental needs throughout their enrollment in school. Developmental services include guidance counseling, psychological services, health services, home and school visitor services and social work services that support students in addressing their academic, behavioral, health, personal and social development issues. **For pre-kindergarten students, these services shall include nutritional services or referrals.**

§ 12.42. Student assistance program.

School entities shall plan and provide for a student assistance program under [the Early Intervention Services System Act (11 P.S. §§ 875-101—875-503)] **section 1547(g) of the Public School Code of 1949 (24 P.S. § 15-1547(g) (relating to alcohol, chemical and tobacco abuse program))**.



Commonwealth of Pennsylvania
STATE BOARD OF EDUCATION

June 2, 2006

Mr. Kim Kaufman
Executive Director
Independent Regulatory Review Commission
14th Floor, 333 Market Street
Harrisburg, PA 17126

Dear Mr. Kaufman:

Enclosed is a copy of proposed form State Board of Education regulation 22 Pa. Code, Chapter 4 (Curriculum), Chapter 11 (Student Attendance) and Chapter 12 (Student & Student Services): Pre-Kindergarten (#006-301) for review by the Commission pursuant to the provisions of section 5(c) of the Regulatory Review Act. The act provides that the Commission shall approve or disapprove proposed regulations within 10 days of the close of the Committee review period or at its next scheduled meeting.

The State Board of Education will provide your Commission with any assistance it requires to facilitate a thorough review of this proposed regulation.

Thank you for your consideration.

Sincerely,

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

Jim Buckheit
Executive Director

Enclosure

cc: Dr. Gerald Zahorchak
Gregory Dunlap, Esq.
Ernie Helling, Esq.

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 6-301
 SUBJECT: PRE-KINDERGARTEN: CURRICULUM, STUDENT ATTENDANCE, STUDENT AND STUDENT SERVICES
 AGENCY: PA STATE BOARD OF EDUCATION

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED
 2006 JUN -2 PM 2:01
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
6/2/06	<i>Cecilia Romano</i>	HOUSE COMMITTEE ON EDUCATION
6/2/06	<i>Samuel Paul</i>	
6/2	<i>D.H.</i>	SENATE COMMITTEE ON EDUCATION
6/2	<i>A.R.</i>	
6/2/06	<i>Kathy A. Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)