

2618

RECEIVED

**From:** Shirley Walker [Shirley@par.net]  
**Sent:** Tuesday, June 03, 2008 10:21 AM  
**To:** 00statbd@email.cas.psu.edu; IRRRC

2008 JUN -3 AM 10: 57

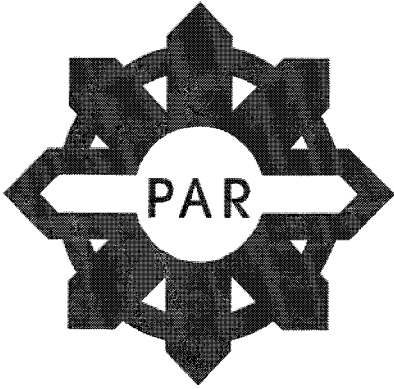
**Subject:** PAR Comments 2008.0602 Proposed Final Form Regulations CH 14 Special Education

INDEPENDENT REGULATORY  
REVIEW COMMISSION

Thank you for accepting our comments and recommendations on the final form regulations for Chapter 14. We appreciate your care to involve the stakeholders. Our primary concern, at this point, is that the regulations recognize experience as well as formal education, which these final form regulations do not. There are also a couple of other recommendations that we believe would make the regulations more clear, and we would appreciate your consideration of those recommendations, but the staffing issue is the one that we are most concerned about.

Shirley

Shirley Walker  
President and CEO  
Pennsylvania Association of Resources  
Autism \* Intellectual Disabilities  
1007 North Front Street  
Harrisburg, PA 17102  
717.236.2374  
<http://www.par.net>



#...2618

Pennsylvania Association of Resources  
Autism • Intellectual Disabilities

1007 North Front Street  
Harrisburg, PA 17102  
Phone 717-236-2374  
Fax 717-236-5625

June 2, 2008

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

Via email: [00statbd@psupen.psu.edu](mailto:00statbd@psupen.psu.edu)

Mr. Kim Kaufman, Executive Director  
Pennsylvania Independent Regulatory Review Commission  
333 Market Street  
14th Floor  
Harrisburg, PA 17101

Via email: [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us)

RECEIVED  
2008 JUN -3 AM 10: 57  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

**Re: Comments on Independent Regulatory Review Commission Number 2618  
State Board of Education Number 6-306  
Final-Form Chapter 14 Special Education Services and Programs Regulations**

Dear Mr. Buckheit and Mr. Kaufman,

Thank you for the opportunity to provide comments on the final-form Chapter 14 Special Education Services and Programs Regulations. The Pennsylvania Association of Resources for Autism and Intellectual Disabilities (PAR) is a statewide association whose members provide the full range of supports and services to more than 42,000 individuals with intellectual disabilities as well as 8,000 people living with autism in over 4,500 locations in the Commonwealth, as well as non-residential and in-home supports.

When the State Board of Education recently issued the Chapter 14 Special Education Services and Programs Regulations for public comment in June 2007, PAR submitted written comments and recommendations on the proposed regulations at that time.

In comparing the final-form regulations with PAR's comments and recommendations to the State Board of Education and the Independent Regulatory Review Commission (IRRC), we noted that some issues still need to be addressed and therefore we are providing these comments in advance of the 48 hour blackout period for the IRRC's June 5, 2008 public meeting:

## Section: §14.105 Personnel

**Discussion:** §14.105 pertains to instructional paraprofessional staff and proposes to align their qualifications with those of paraprofessionals employed in schools that receive Federal Title I funds and those employed in prekindergarten programs. If the regulations are promulgated in their current form, effective July 1, 2008, an early intervention (EI) program will be limited to hiring paraprofessionals who have an Associate's Degree or 2 years of post-secondary education and existing staff will have until July 1, 2010 to comply with the educational requirement.

The final-form regulations do not take experience or alternative educational methods into account nor do they take into account that we need to select from a very diverse workforce, some of which would meet comparable experience requirements but not the formal education required in these final-form regulations. For example, many providers work with local community colleges and training programs like the College of Direct Support (a national, web-based curriculum designed for individuals who support people with developmental disabilities) and the Child Development Associate program (a national credentialing program) to promote certification and credentialing of personnel. It is strongly recommended that such practices be permitted under the regulations. This would enhance our success in accessing a qualified workforce by recognizing that there are diverse ways that people can legitimately qualify (e.g., formal education, experience, credentialing or other acceptable training).

Without the flexibility to hire people who have comparable levels of experience and/or credentialing, the shortage of paraprofessionals becomes further exacerbated. Therefore, we recommend allowing for alternative comparable ways to qualify as outlined in our recommendations below.

### Recommendations:

- **Add the following language to §14.105(a): *Have completed a recognized certification and/or credentialing program in special education, early intervention, or a related field. 5 years of experience in special education, early intervention, or a related field.***
- **If this recommendation is not accepted, we recommend that:**
  - **providers be given additional funding to meet the new requirements,**
  - **the July 1, 2008/July 1, 2010 deadline be extended, and**
  - **all current employees be grandfathered to enable the retention of our dedicated, qualified workforce.**

Discussion: §14.105 (a)(2) states "Nothing in subsection (a) should be construed to supersede the terms of a collective bargaining agreement in effect on July 1, 2008." Does this mean that a collective bargaining agreement takes precedence over the requirements in subsection (a) in that a collective bargaining agreement could negotiate a greater or lesser degree of qualification? PAR supports the grandfathering of existing staff with collective bargaining agreements and the

implication that when the agreements expire the regulations at this section will be fully implemented.

- **Recommendation: Clarify that §14.105 (a) will take effect once collective bargaining agreements in existence on July 1, 2008 expire.**

### **Section: §14.133 Behavior Support**

#### **Discussion:**

§14.133(b)(i), now states, “THE TERM RESTRAINT DOES NOT INCLUDE BRIEFLY HOLDING, WITHOUT FORCE, A STUDENT OR ELIGIBLE YOUNG CHILD IN ORDER TO CALM OR COMFORT HIM, GUIDING A STUDENT OR ELIGIBLE YOUNG CHILD TO AN APPROPRIATE ACTIVITY, OR HOLDING A STUDENT’S OR ELIGIBLE YOUNG CHILD’S HAND TO SAFELY ESCORT HER FROM ONE AREA TO ANOTHER.”

PAR appreciates the change that was made to the proposed regulations as recommended in PAR’s July 30, 2007 comments. This change to §14.133(b)(i) clarifies that restraints don’t include holding a child to calm or comfort the child, guiding a child to an appropriate activity, or holding a child’s hand for safe escort. This language should be retained.

Discussion: §14.133 (c)(5) now states “School entities shall maintain and report data on the use of restraints as prescribed by the Secretary. THE REPORT SHALL BE REVIEWED DURING CYCLICAL COMPLIANCE MONITORING CONDUCTED BY THE DEPARTMENT.”

When developing the reporting requirements for this section, PAR recommends that the Department keep in mind that the reporting method should be simple, non-duplicative of other existing requirements, and not implemented in a way that would increase unnecessary paperwork, staff time, or costs. This will allow staff to spend more time with the children and less time on duplicative paperwork.

PAR also recommends that the data be used for monitoring purposes, and/or evaluation of trends for possible dissemination of best practices, and that these data would not be reported to the general public which can have the effect of discouraging necessary reporting.

**Recommendations:**

- **PAR appreciates the addition of the following phrase to section (b)(i) as we recommended in our July 30, 2007 comments and this phrase should be retained, “THE TERM RESTRAINT DOES NOT INCLUDE BRIEFLY HOLDING, WITHOUT FORCE, A STUDENT OR ELIGIBLE YOUNG CHILD IN ORDER TO CALM OR COMFORT HIM, GUIDING A STUDENT OR ELIGIBLE YOUNG CHILD TO AN APPROPRIATE ACTIVITY, OR HOLDING A STUDENT’S OR ELIGIBLE YOUNG CHILD’S HAND TO SAFELY ESCORT HER FROM ONE AREA TO ANOTHER.”**
- **Ensure that data is collected and used appropriately.**

**Section: §14.153 Evaluation**

**Discussion:** §14.153 states “Notwithstanding the requirements [adopted by reference] in 34 CFR 300.122 (relating to evaluation).” It is not clear whether this language means ‘in addition to’ or ‘in spite of.’ Write the language more clearly since “notwithstanding the requirements” is language that is not common and therefore is difficult to understand.

§14.153 (4)(i) states “Initial evaluation or reevaluation shall be completed and a copy of the evaluation report presented to the parents no later than 60 calendar days after the early intervention agency receives written parental consent.”

Discussion: Currently, if parents don’t give consent in 10 days, the re-evaluation may take place. Parents often don’t sign reevaluation consent forms; two of the reasons are: unresponsiveness and fear that if tested the child will lose eligibility and hence their service. This is particularly a problem when a child is in a center based preschool program and parents rely on it for childcare, respite, etc. Due to these reasons, we recommend retaining the current allowance for re-evaluation after 10 days.

**Recommendations:**

- **Use simpler language than “notwithstanding the requirements.”**
- **Retain the current practice of allowing re-evaluation to take place within 10 days if parental consent is not given.**

**Section: §14.155 Range of Services**

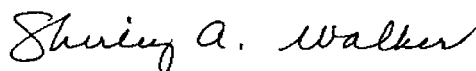
**Discussion:** §14.155 (a) states “The Department will ensure that options are available to meet the needs of children eligible for early intervention. The options may be made available directly by early intervention agencies or through contractual arrangements for services and programs of other agencies in the community, including preschools [provided these other agencies are licensed, when appropriate, by the Department or the Department of Public Welfare]. The options may be made available directly by early intervention agencies or through contractual arrangements for services and programs with other agencies in the community, including preschools, provided that the other agencies are subject to the supervision or licensure of the Department of Public Welfare or licensed by the State Board of Private Academic Schools.”

Discussion: You have clearly recognized in this regulation that non-licensure and licensure programs are included with the addition of the phrase “supervision or licensure.”

**Recommendations: You have clearly recognized in this regulation that non-licensure and licensure programs are included with the addition of the phrase “supervision or licensure.” Please retain the language that you added which satisfactorily addresses our concern.**

Thank you for considering our comments and recommendations. If you have any questions, please do not hesitate to contact me.

Sincerely,



Shirley A. Walker  
President and CEO