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August 26, 2007

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

RE: 22 PA Code, Chapter 14

Dear Mr. Buckheit:

I am in receipt of the Learning Disabilities Association of Pa, Inc. position paper on the proposed changes to Chapter 14. While I have other comments regarding the regulations, I fully support their stated positions on proposed changes and will add comments to their issues. I appreciate the opportunity to address my concerns regarding special education and the revisions.

As a background to my comments, please let me assure you that I am not new to the special education field. Prior to being elected, I served as a long time advocate for individuals with disabilities. I served as the statewide transition coordinator for the Parent Education Network, presented at many conferences with staff from the Bureau of Special Education, and Office of Vocational Rehabilitation, was a compliance monitor for the Bureau and served under Governor Ridge and Schweiker on the State Rehabilitation Council.

**TRANSITION**

I strongly support maintaining transition planning at age 14 or younger if any member of the IEP team, including the parent, believes that transition should start earlier. Considering that special education is defined in Federal Law:

**§300.1 (a) To ensure that all children with disabilities have available to them a free public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living.**

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One can argue that transition should start the day a student is identified. I have reviewed many IEPs in the past and sadly unless the parent has a firm grasp of the importance of transition, it is many times a canned document with no involvement of outside agencies. Our mental health and mental retardation providers have shared with me that they are learning of new individuals entering their system just prior to graduation. It is critical that other agencies involved in the PA Memorandum of Understanding be part of a student's transition to avoid issues such as the PA waiting list. Our county MH/MR providers especially need to be included in these plans to make the transition from school to life after school a positive experience.

#### **§14.121 – CHILD FIND**

Considering the fact that the majority of our students with disabilities are indeed children with specific learning disabilities, child find is critical. My office frequently receives calls from constituents concerning their child's lack of progress in school or their child's inability to read. Sadly, some calls are from parents whose children are in 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup> and even 12<sup>th</sup> grade. Some are students who have struggled year after year with no intervention. We have students who are failing or repeating grades, but have never been referred for an evaluation. Schools unfortunately are many times playing the wait and see game when an evaluation to determine whether a child has a disability is critical.

#### **§14.122 – SCREENING, RTI**

I fully support LDA's position on screening and RTI. I have reviewed information regarding RTI and see RTI as a delay to critical services. RTI seems to be a resurrected and recycled Instructional Support Team (IST) under a former Secretary and Administration that consumed millions of taxpayer dollars, training the trainer hours and tons of printed material that eventually faded into the sunset to be revived under a new name. Are there any reported outcomes from the old IST? While I may agree with the concept, it would stand to reason that good schools and teachers would just simply be doing this as good practice. As a legislator, I cannot support RTI being implemented without parental notification of a right to an evaluation. I strongly support LDA's position that RTI must be proven effective by a pilot program before forcing this concept and taxpayer dollars on yet another program that will also fade away. LDA's concluding question needs to be answered. Where will the oversight be to ensure proper standards for assessing the effectiveness of RTI and who will enforce accountability.

#### **§14.123- EVALUATION**

I do not support extended timelines for the evaluation from 60 calendar days to 60 school days. Time, and school days for a child that is struggling can lead to many frustrations and behavior problems that mask the real disability. The sooner, not later that we can provide intervention is critical to a child and his/her future.

The evaluation to determine a specific learning disability or any other disability is critical when identifying services and supports for a student. Sadly, I have seen many IEPs in the past and recently from psychologists that are not comprehensive to identify a specific learning disability. Indeed, many times an evaluation will simply say the child is LD without any specifications. The Department must do a better job in ensuring that our school psychologists are conducting proper, thorough evaluations. An IEP team cannot develop an appropriate IEP under the guise of an LD determination. A thorough evaluation for a child with a specific disability must identify where the child is struggling. Only then can an appropriate IEP be developed. Far too often, I have recommended to parents that they seek an independent evaluation that usually far exceeds the thoroughness of a public school evaluation.

#### **§14.125 – CRITERIA FOR THE DETERMINATION OF SPECIFIC LEARNING DISABILITY**

Revisions need to maintain the criteria for the determination of SLD. The omission in the draft is more than oversight, it is outrageous. At a time when we are adding on to our correction facilities at an alarming rate, we are also failing our students by not teaching them to read, only to transition them to our correction facilities. We all hear the cliché's, "Reading is Fundamental," "Read to Succeed," but sadly our education system is leaving many of our students behind, because our students are not identified early, are not identified with a specific disability and are not being taught with direct instruction and researched based curriculum. It is unconscionable today, with all the research, all the materials available to educators through PATTAN, with all the training available through PATTAN, with all the technical assistance available through PATTAN that we are seeing students failing.

Parents are frustrated. More and more parents whose children are not receiving an appropriate education are paying for remedial service through agencies such as the Sylvan learning centers, when the law says their children are to have a free appropriate program and they are to make progress. More and more parents are home schooling, seeking out cyber schools, charter schools and private school, because they know that learning to read is critical to a child's future. It is time the Department requires accountability of special education programming and services and to the dollars invested by the people of PA. Determining criteria for the determination of a specific learning disability and providing an appropriate education can and does determine the success of our students.

#### **§14.145 – LRE REQUIREMENTS**

I fully support a full continuum of services and support the reasoning of LDAPA. The IEP by definition is to be individualized to meet the needs of the child including the setting where the child will gain the most educational benefit. An inclusion program that says one size fits all is not individualized but a convenience for an LEA. I also support the proposed language submitted by PSBA included in comments by LDAPA.

**§14.133 BEHAVIOR SUPPORT****(a) Positive rather than negative measures shall form the basis of behavior support programs**

Probably nothing is more disturbing to parents and school staff than restraints. Parents need to be assured that staff are well trained in these procedures. While there is a need possibly at times for restraints, the training of staff is critical.

Another concern related to me by advocates is the need for monitoring by the Bureau of Behavior Plans. Here again, parents and advocates are seeing the "one size fits all" approach. I have witnessed many times an LEA overlooking behavior assessments that can determine the basis for a child's behavior, the triggers of an episode and how to avoid future behavior problems. The manifestation of a child's disability is many times ignored. I concur with the conclusions of VALUE regarding the comments and recommendations put forth by Director, Sallie Lynaugh. While this section starts out with positive supports, it quickly spirals downward to address negative approaches to behavior.

I strongly support the change in section (e) from physician to the child's primary care physician as stated by the VALUE Coalition.

Thank you for the opportunity to comment of the draft regulations. I look forward to hearing of many of the changes and final version of Chapter 14 that I hope will benefit our students across PA.



State Representative Kathy L. Rapp  
Minority Chair, Sub-Committee on Special Education  
65<sup>th</sup> Legislative District  
Warren, Forest, McKean

cc: The Honorable James J. Rhoades, Senate Education Committee  
The Honorable Jeffrey Piccolo, Senate Education Committee  
The Honorable James Roebuck, Jr. House Education Committee  
The Honorable Jess M. Stairs, House Education Committee  
The Honorable Barbara McIlvaine Smith, Chair, Subcommittee on Special Education