

JAMES R. ROEBUCK, MEMBER

208 IRVIS OFFICE BUILDING

P.O. BOX 202188

HARRISBURG, PENNSYLVANIA 17120-2188

PHONE: (717) 783-1000

FAX: (717) 783-1665

4712 BALTIMORE AVENUE

PHILADELPHIA, PENNSYLVANIA 19143

PHONE: (215) 724-2227

FAX: (215) 724-2230



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

2618

Chairman, Education Committee
Intergovernmental Affairs Committee

Caucuses

PA Higher Education Assistance Agency, Member
Board of Directors

PA Historical and Museum Commission
Black History Advisory Committee, Member

PA Legislative Black Caucus, Member

November 1, 2007

Jim Buckheit, Executive Director
State Board of Education
333 Market Street
Harrisburg, PA 17120

RE: Proposed Regulation #006-306(Special Education Services Programs)

Dear Mr. Buckheit:

Pursuant to Section 5 of Act 181, known as the Regulatory Review Act, the House Education Committee held a hearing on September 27, 2007, to review the proposed Chapter 14 regulation.

On October 31, 2007, the committee voted to send comments to the State Board of Education regarding this proposed regulation. Attached for your review and consideration are those comments.

The committee and its staff greatly appreciate many of the other issues addressed by the Board and the effort which went into the proposed changes. We compliment the Board members and its staff for their hard work and look forward to working with them in their effort to improve Chapter 14.

Sincerely,

James R. Roebuck, Chairman
House Education Committee

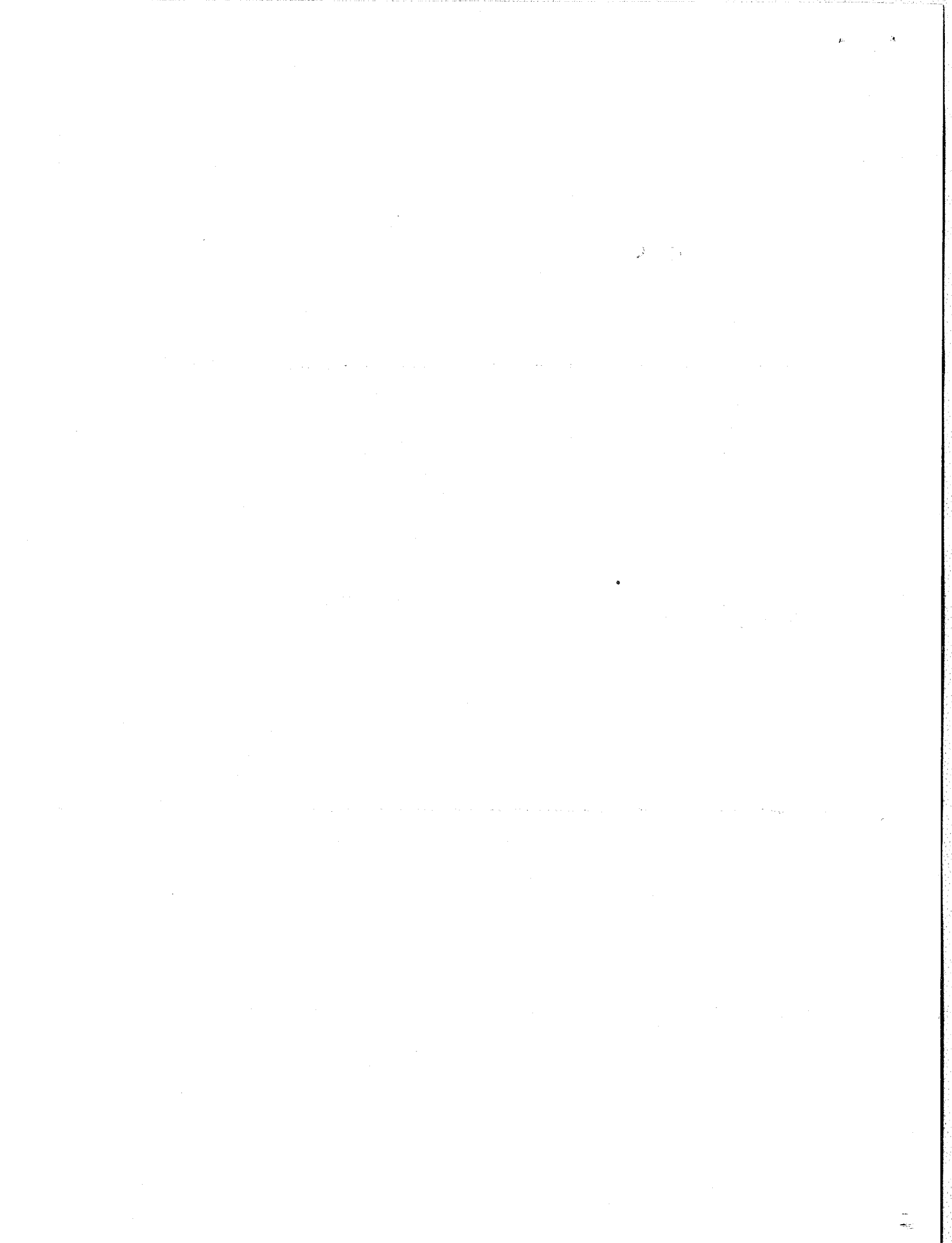
JRR/st

cc: Mr. Arthur Coccodrilli, Chair, Independent Regulatory Review Commission
House Education Committee Members
Honorable James Rhoades, Chairman- Senate Education Committee

INDEPENDENT REGULATORY
REVIEW COMMISSION

2007 NOV 13 PM 1:48

RECEIVED



Chapter 14: Special Education Regulations Proposed Regulatory Changes

The House of Representatives Education Committee respectfully submits the following suggestions to the State Board of Education concerning the proposed changes to the aforementioned regulations and asks for due consideration of the recommendations.

§14.105(a) Personnel (Qualifications for Paraprofessionals)

The State Board of Education proposal requires all paraprofessionals who assist in providing services to children with disabilities who are hired after July 1, 2008, to have completed at least 2 years of post-secondary study or possess an Associates Degree or higher AND meet a rigorous standard of quality as demonstrated through a formal state or local academic assessment of knowledge in and ability to assist in instruction in reading, writing, and mathematics or meet rigorous standard of quality as demonstrated through a formal state or local academic assessment of knowledge and ability. Paraprofessionals have expressed concern with these new requirements. Many feel that school districts will have a difficult time finding qualified applicants for these positions. Further, these qualifications should be limited to only those paraprofessionals providing direct instruction to children with disabilities and should exclude personal aids or paraprofessionals who support a student, teacher or classroom but do not provide any direct instruction. The Board should consider defining an instructional aid so that these requirements do not pose significant costs to school districts to hire personnel as well as cause a negative impact on current jobs.

§14.105(c) Educational Interpreters (Qualification Requirements for Educational Interpreters)

The State Board of Education has proposed that Educational Interpreters meet certain requirements. Interpreters must achieve a minimum score requirement of 3.5 for the Educational Interpreters Performance Assessment (EIPA) or be qualified under the Sign Language Interpreter and Translator Registration Act. Additionally, interpreters must also have a minimum of 20 hours of staff development activities annually. Many have questioned the consequences of interpreters who cannot meet the 3.5 EIPA score requirement. If those who cannot score high enough on the assessment are dismissed, will it become a challenge to replace them? Also, those who can achieve the score necessary could require a higher salary which would increase competition that some school districts and intermediate units may not be able to afford. Educational Interpreters throughout the Commonwealth voiced their opinions, some saying that over time their score did increase. Therefore, the suggestion of raising the score requirement after the interpreter has held the position for a certain period of time has been made. Others suggested lowering the score to 3.0. Another suggestion is that interpreters receive training during the school day provided to them through the Pennsylvania Training and Technical Assistance Network (PaTTAN).

§14.105(e) (1) Maximum Caseload

The State Board of Education has proposed the maximum caseloads to be: Level I Services at 50 students, Level II Services at 25 students, Level III Services at 15 students, Level IV Services at 8 students, and Speech and Language Support at 65 students. In response, many have indicated that Level II at 20 students would be more appropriate and Speech and Language caseload should be at a maximum of 50 students.

§14.108 Access to Classrooms

The State Board of Education has included access for parents to their child's classroom as well as records, however we encourage the Board to go further by providing parents and family experts access to their child's current and proposed classroom, while ensuring school and classroom safety and functioning. It was also expressed that parents, school board members, administrators, etc. do not have adequate access to information concerning special education regulations, due process, the Pennsylvania Training and Technical Assistance Network (PaTTAN). It was suggested that the Department do more to make certain that this type of information is available and utilized.

§14.123 Evaluation (Calendar Days vs. School Days)

The State Board of Education has adopted 60 school days as the timeline for an initial evaluation. We received a great amount of testimony against this decision. A majority of the states use calendar days, instead of school days, to measure evaluation deadlines. Using school days as the measuring unit can take approximately 3 months for a school district to complete a student's evaluation. It is necessary for the evaluation of an IDEA eligible student to be done in a timely and effective manner and therefore we request the board adopt a 60 calendar day timeline for evaluations and other IDEA related deadlines.

§14.131 IEP (Definition of Twice Exceptional Students)

We received testimony from PAGE concerning the need to better serve students who are both gifted and learning disabled. We urge the Board to consider adding gifted support to the services provided in the IEP to insure that the needs of the gifted, learning disabled student or any gifted student with dual exceptionality will have their gifted needs addressed.

§14.133 Behavior Support

The State Board of Education has proposed changes to behavior support in the classroom that would define a restraint as devices and techniques that last more than 30 consecutive seconds, which would allow any "restraint" lasting less than 30 seconds to not trigger a mandatory meeting of the IEP team and notification to the parent and proper documentation. We have received much opposition to this definition and would urge the Board to consider removing it from the regulations. Conversely, the Alliance of Approved Private Schools indicated that in some instances prone restraints may be the most suitable method (due to medical condition) to restrain a child, but should only be conducted by a trained team who has received training and ongoing competency in the restraint technique used. Therefore we strongly encourage the Board to consider those circumstances outlined by the APS Alliance.

§14.145 LRE Requirements (Least Restrictive Environment)

The State Board of Education has proposed that students with disabilities be educated in the least restrictive environment and to the maximum extent and as provided in the IEP, that the student be educated with non disabled students. However we have received many comments suggesting that this proposal is likely to cause students to be placed inappropriately in violation of IDEA and to remain in classes when it is clear that they are no longer deriving meaningful education benefit from an IEP, even though it was supported with appropriate supplemental aids and services. Therefore the proposal should be amended to include that placements with non disabled peers be made to the "maximum extent appropriate". Many feel that without this recommended revision, Section 14.145 violates IDEA by allowing children to remain in classrooms when it is evident that they are making no progress.

§14.162 Appeals Panel; Due Process

The State Board of Education should consider eliminating the Appeals Panel because this is seen by parents as an additional hurdle in the process with little or no added protection for the rights of children and families or school districts. Therefore it is recommended that the Appeals Panel in the Office of Dispute Resolution (ODR) be eliminated so that parties can have their cases resolved in a more streamlined and consistent manner. Also, Chapter 14 is currently silent on who should bear the burden of proof in a due process hearing. We have received testimony that requests the burden of demonstrating by a preponderance of the evidence the appropriateness of a child's IEP should be bore by the School District and not the parent. The State Board of Education should also consider making the ODR an independent and separate operating unit within PDE or completely removing it entirely. This will help eliminate any improprieties that may be apparent or that could occur in the future operation of this office.