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PEGS, Inc.

**Rationale for Chapter 14 Review proposed language**

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PEGS, Inc. fully supports recognition of the comprehensive needs of students that are both gifted and disabled through consideration of whole child needs.

INDEPENDENT REGULATORY  
REVIEW COMMISSION

In alignment with the state's recognition of gifted children as children with exceptionalities and with the Gaskin settlement, PEGS Inc. recommends integration of the dual protections afforded these **dually exceptional students**. PEGS Inc. stresses the need to ensure that students identified as disabled and gifted will fully receive the rights under both sets of regulations, as implemented by a single special education plan.

PEGS Inc. seeks safeguards ensuring that gifted mental ability and/or gifted educational placement not obstruct identification or provision of disability related services.

PEGS Inc. recommends for a student who is suspected of being gifted or identified as gifted under chapter 16 and who is suspected or identified as eligible for special education in chapter 14 that all evaluations or reevaluations investigate needs of the whole child in accordance with IDEA and chapter 16. PEGS Inc. further recommends that evaluations and re-evaluations assess for mental giftedness simultaneously with disability related needs, so as to determine the needs of the whole child and so as to uncover masking effects on giftedness or learning needs. PEGS Inc. encourages the use of alternative assessments or indexes of cognitive abilities in situations where the most common measure of intellectual potential, the full Scale WISC-IV, is not the most accurate assessment of the student's ability owing to the presence of a disability.

PEGS Inc. recommends that parents be afforded the opportunity to audiotape meetings at their discretion, so that the parent may review complex explanations offered at the meeting, and so a non-attending spouse or advocate may review the meeting with the parent.

PEGS Inc. seeks recognition that dually exceptional students may be eligible for ESY or Extended School Day when the student's disability prevents timely completion of coursework. PEGS Inc. also stresses the importance of highly qualified and certificated in subject area teachers and professional employees for in home instruction.

PEGS Inc. seeks full investigation of all Compliance complaints regarding dually exceptional students. PEGS Inc. seeks recognition that Compliance Officers cannot realistically separate the child's placement into chapter 14 and chapter 16 portions, if children are appropriately offered a fully integrated placement and program.

**§ 14.101. Definitions.**

*Dual exceptionality*--A student who has been identified as both disabled and mentally gifted under 22 Pa. Code §16.01 *et seq.*

*Mentally gifted*--Outstanding intellectual and creative ability the development of which requires specially designed programs or support services, or both, not ordinarily provided in the regular education program.

**§ 14.102. Purposes.**

- (a) It is the intent of the Board that children with disabilities be provided with quality special education services and programs. The purposes of this chapter are to serve the following:
- (3) To specify how the Commonwealth will meet its obligations to exceptional children who are identified as both mentally gifted under Chapter 16 and disabled under Chapter 14.
    - (i) Nothing in this chapter is intended to reduce the protections afforded to students who are eligible for special education as provided in Chapter 16.
    - (ii) Gifted mental ability and gifted educational placement shall not be used to limit the identification of the dually exceptional or the provision of services under either Chapters 14 or 16.

**§ 14.103. Terminology related to Federal regulations.****§ 14.104. Educational plans.**

(b) Each school district's special education plan shall specify the special education programs that operate in the district and those that are operated in the district by intermediate units, area vocational technical schools, [and] other agencies and describe:

...

- (8) Procedures for offering a full range of services and programs to identify and serve children dually identified as gifted and disabled.

**CHILD FIND, SCREENING AND EVALUATION****§ 14.121. Child find.****§ 14.122. Screening.****§ 14.123. Evaluation.**

- (a) The group of qualified professionals, which reviews the evaluation materials to determine whether the child is a child with a disability under 34 CFR 300.534(a)(1) (relating to determination of eligibility), shall include a certified school psychologist when evaluating a child for autism, emotional disturbance, mental retardation, multiple disabilities, other health impairments, specific learning disability or traumatic brain injury. If a child is thought to be exceptional as a gifted student under 22 Pa. C. §16.01 *et seq.* and disabled, the certified school psychologist shall evaluate for mental giftedness as well as disabilities. The needs of the whole child shall be evaluated in accordance with both 34 CFR § 300.301 through 300.311 and 22 Pa Code §§16.22 through 16.23. When appropriate, alternative assessments of IQ, or

alternative gifted oriented indexes of IQ, will be considered so as to accurately measure a disabled student's aptitudes.

- (b) In addition to the requirements incorporated by reference in [34 CFR 300.531—300.535] 34 CFR 300.301 the initial evaluation shall be completed and a copy of the evaluation report presented to the parents no later than 60 [school] calendar days after the agency receives written parental consent for evaluation.
- (c) For a disabled student who, in accordance with 34 CFR § 300.502, is entitled to an independent evaluation at public expense and who is suspected of being mentally gifted or eligible under Chapter 16, the independent evaluation shall extend to the needs of the whole child, including those needs related to mental giftedness.

#### § 14.124. Reevaluation.

- (a) The group of qualified professionals, which reviews the evaluation materials to determine whether the child is a child with a disability under 34 CFR 300.536 (relating to reevaluation), shall include a certified school psychologist when evaluating a child for autism, emotional disturbance, mental retardation, multiple disabilities, other health impairment, specific learning disability and traumatic brain injury. When a child is thought to be exceptional as a gifted student under 22 Pa. C. §16.01 *et seq.* and disabled, the certified school psychologist shall evaluate for mental giftedness as well as disabilities.

#### IEP

#### § 14.131. IEP.

- (a) In addition to the requirements incorporated by reference, the following provisions apply to IEPs:
  - (8) Parents of students with exceptionalities may at their discretion audiotape MDT and IEP meetings without restrictions.
- (d) Dually exceptional students who are eligible for a gifted individual education plan (GIEP) and IEP shall be served under a single individual education plan governing both the disability and mental giftedness needs of the whole child. All of the protections afforded by Chapter 16 shall be included within the IEP.
  - (i) The single IEP shall be responsive to the student's needs and learning strengths, and
  - (ii) The single IEP shall include statements of the specially designed instruction, present levels of educational performance, annual goals and support services as defined in both this Chapter and in Chapter 16, and
  - (iii) All goals for the student shall contain short-term learning outcomes, as defined in Title 22 §16.32.

#### § 14.132. ESY.

- (a) In addition to the requirements incorporated by reference in 34 CFR 300.106 (relating to extended school year), school entities must

**use the following standards for determining whether a student with disabilities requires ESY as part of the student's program.**

- (1) At each IEP meeting for a student with disabilities, the school [districts] entity shall determine whether the student is eligible for ESY services and if so, make subsequent determinations about the services to be provided.
- (2) The extent to which the student's disability caused absenteeism which made completion of the classroom or in home instruction course of study impossible within the regular school year.

**§ 14.133. Behavior support.**

**§ 14.141. Terminology related to educational placement.**

*In Home Instruction support--Services for students with disabilities who require tutors in the home for educational benefit*

**§ 14.142. Caseload for special education.**

**§ 14.143. Disciplinary placements.**

**§ 14.144. Facilities**

**EARLY INTERVENTION**

**§ 14.151. Purpose.**

**§ 14.152. Child find, public awareness and screening.**

**§ 14.153. Evaluation.**

**§ 14.154. IEP.**

**§ 14.155. Range of services.**

**§ 14.156. System of quality assurance.**

**§ 14.157. Exit criteria.**

**§ 14.158. Data collection.**

**PROCEDURAL SAFEGUARDS**

**§ 14.161. Prehearing conferences.**

**§ 14.162. Impartial due process hearing and expedited due process hearing.**

**§ 14.163. System of quality assurance.**

(a) The Department shall assure in accordance with section 302(b) of the act (11 P. S. § 875-302(b)) through its monitoring and technical assistance activities, a system of quality assurance:

- (i) including evaluation of the developmental appropriateness, and
- (ii) quality and effectiveness of programs; and
- (iii) assurance of compliance with program standards; and
- (iv) documented progress indicators; and
- (v) provision of assistance to assure compliance.

(b) These requirements will apply to those programs operated by the agency directly or through providers contracted by the agency.

(c) Compliance complaints involving students who are dually exceptional shall be fully investigated as set forth under 34 CFR § 300.151-153.