

2635

From: Independent Regulatory Review Commission [No-Reply@irrc.state.pa.us]
Sent: Tuesday, September 16, 2008 8:29 AM
To: Help
Subject: IRRC Website - New Message



IRRC

Independent Regulatory Review Commission

A new message has arrived from the IRRC Website

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Subject: Oppose (or Support) IRRC #2635

Message:

I oppose IRRC #2635. The final-form regulation is not in the public interest. The regulation is not consistent with the gifted education statute in that it fails to provide one statewide set of standards for the screening and evaluation of gifted children. The full economic impact of the regulation has not been considered by the Board of Education as required by Section 745.5b(b)(1). Under subsection (i), the direct and indirect costs of a higher number of due process hearings and mediations on our school districts have been ignored. Under subsection (ii), the adverse effect of the competitiveness of the Commonwealth which would be enhanced by a better regulated gifted education community has also been ignored. Also, under subsection (iv), the nature and estimated cost of legal and consulting expenses that the private sector will incur have not been addressed and these costs are substantial. Our greatest natural resource is our children. The protection of the welfare of our gifted children as provided by Section 745.5b((b)(2) fails to occur when this regulation fails to provide systematic safeguards and accountability standards. The regulations as presented fail to permit a teacher to file a complaint. Our teachers are on the front-line of education and are best able to identify violations of the gifted education law yet the State Board refused to recognize their first alert capacity. The regulations are in need of greater clarity as pointed out by several commentators during the regulatory process. The following are just a few examples: (1) Section 1 defines the terms "gifted student" and "mentally gifted", while further confusing the issue by redefining gifted in 16.21 when discussing the adoption of a screening and evaluation process to identify gifted students. (2) In Section 1, "screening and evaluation process" is defined as "the systematic determination of whether or not a student is gifted or needs gifted education". What is missed is that general screening and specific evaluation is actually two distinct processes. In considering the reasonableness of a regulation, Section 745.5b(b)(3)(iii) states that the need for the regulation is to be considered. In this case, the regulations require an "individual educational plan" based upon the "present levels of educational performance" which is simply a baseline. There are numerous due process decisions reprimanding school districts for utilization of generic, useless present levels of educational performance measures, such as "Above Level", course grades, and PSSA. These measurements fail to determine the child's actual level of instructional preparedness from which appropriate instruction can be provided and growth can occur. Notwithstanding this misunderstanding of the foundation upon which an appropriate plan is prepared, this needed term has been left undefined. Finally, the proposed compliance and complaint-management systems proposed to be developed without the benefit of public comment and regulatory review is not in the public interest. The IRRC and the House Education Committee addressed this issue with the proposed regulations. In 2000, the IRRC and the Senate Education Committee expressed a need for detailed compliance rules in the regulations. This section is critical as the compliance monitoring and complaint management have been essentially nonexistent. For such poor performance, the State Board of Education proposes that the Secretary of Education be allowed to proceed on an "independent study" approach when in fact remediation of the problem is required. These are critical tools for accountability of the education system that are appropriately developed in the regulatory process. Thank you for your consideration of these comments opposing IRRC #2635.

9/16/2008