

#2635  
**Buckheit, James**

RECEIVED

**From:** Buckheit, James  
**Sent:** Tuesday, March 18, 2008 9:15 AM  
**To:** 'Michelle Ciora'  
**Subject:** RE: Chapter 16 - PEGS comments

2008 MAR 19 AM 9:23

INDEPENDENT REGULATORY  
REVIEW COMMISSION

Dear Ms. Ciora:

I write to acknowledge receipt of your comments that were submitted to the State Board of Education and others concerning the proposed Chapter 16 regulations of the State Board of Education that were published in the Pennsylvania Bulletin on September 8, 2007 and discussed at public meetings of the State Board since that time.

As required by law, copies of your comments will be provided to the leadership of the House and Senate Education Committees, Independent Regulatory Review Commission (IRRC) and each member of the State Board of Education.

Members of the State Board will carefully consider your comments as they prepare the final form regulation. If you would like to be notified by mail and receive a copy of the final form regulation when it is submitted for final approval by the House and Senate Education Committees and IRRC, please send a written request to my attention at the address printed below.

Thank you for taking the time to share your thoughts with the State Board of Education.

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

-----Original Message-----

**From:** Michelle Ciora [mailto:mciora@zoominternet.net]  
**Sent:** Thursday, March 13, 2008 2:27 PM  
**To:** James Buckheit  
**Subject:** Chapter 16 - PEGS comments

Dear Mr. Buckheit,

Thank you for the opportunity to comment on proposed changes to Chapter 16 at the Chapter 14/16 Committee meeting. Our comments on proposed changes to Chapter 16 are listed below and attached. Can you also please forward the contents of this email and the attachments to Mrs. Phillips and other members of the Chapter 14/16 Committee?

Thank you for your help with this.

Sincerely,  
Michelle Ciora  
President, PEGS

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3/18/2008

PEGS comments about proposed Chapter 16 changes:

16.1... concerning the definition of *gifted student*

A student that meets the definition of mentally gifted should not also have to prove that they are in need of specially designed instruction in order to be considered a gifted student. Since *gifted education* is already defined as specially designed instruction to meet the needs of a gifted student, and since the definition of *mentally gifted* defines what it means to be gifted, **we recommend that in the definition of gifted student, the words "and needs specially-designed instruction beyond that required in chapter 4 (relating to academic standards and assessment)" be removed.** If the reference to chapter 4 is needed, please consider adding it to the definition of *gifted education* in reference to specially designed instruction.

16.21

The marriage of screening and evaluation within the regulation is still problematic. Districts are confused about the difference between them and what each should consist of.

There is widespread use of screening criteria frequently referred to as a *gifted matrix*, which is weighted by subjective criteria that might be desirable for a district's gifted enrichment program but uses criteria that is not validated or appropriate for gifted identification. The sum of the student's strengths in all areas are used to make gifted determination with these matrices. While it is true that there are happy, neat, quick, engaged, focused, manageable, motivated, gifted students that are creative, artistic, high achieving and have great leadership abilities, many gifted students have some, few or none of those qualities, and they should not automatically be disqualified from gifted identification as a result. Furthermore, by profiling for certain qualities and behaviors, this type of screening measure discriminates against gifted students with learning disabilities, gifted with autism, gifted with ADHD, gifted that are slow-processing, deep thinkers let alone the majority of gifted that happen to be introverted.

It is even more troubling that some districts are using this dubious screening method for evaluation. A much-needed distinction between and clarification of screening and evaluation is particularly vital since commonwealth court (EN vs SD filed July 12, 2007) has indirectly approved the use of these matrices for *evaluation*. **We need to explicitly state that matrices and other gifted identification procedures containing criteria not validated for gifted identification are not appropriate for evaluation.** And furthermore, it should be clarified that the screening criteria needs to be objective and less restrictive than evaluation criteria.

16.21.d

We are concerned about the proposed language which reads "Deficits in memory or processing speed, as indicated by testing, cannot be the SOLE basis upon which a student is determined to be ineligible for gifted services." As written, these deficits cannot be the ONLY reason but can be A reason for refusing gifted identification? While we strongly support the explicit mention of memory and processing speed deficits, **we ask that the sentence be included without the word SOLE.**

16.21.d, concerning IQ testing

We recommend explicit recognition that the General Ability Index (GAI), verbal index scores and nonverbal index scores are acceptable alternatives to FSIQ for identification, and we also recommend the use of nonverbal IQ tests when indicated.

The gifted are not a homogenous group, and the widely used IQ tests have a poor track record of identifying all gifted children. The creators of the WISC-IV, for example, had assumed that gifted students would be gifted in working memory and processing speed. Having belatedly realized that this assumption wasn't true, they have recommended use of a quotient of the verbal and nonverbal indices, called the GAI, which is less dependent on the factors of working memory and processing speed. **The National Association for Gifted Children (NAGC) and PEGS recommend the use of the GAI calculation for gifted identification** as follows. (See attached NAGC position statement):

When the WISC-IV is used for the identification of gifted students, either the General Ability Index (GAI), which emphasizes reasoning ability, or the Full Scale IQ Score (FSIQ), should be acceptable for selection to gifted programs. The GAI should be derived using the table provided in the Harcourt Assessments website (*Technical Report 4*)  
[\[http://harcourtassessments.com/hai/Images/pdf/wisciv/WISCIVTechReport4.pdf\]](http://harcourtassessments.com/hai/Images/pdf/wisciv/WISCIVTechReport4.pdf)

**Furthermore, NAGC and PEGS recommend that a verbal or non-verbal IQ quotient of 130 or more qualify for gifted identification.** (See attached NAGC position statement):

The Verbal Comprehension Index (VCI) and the Perceptual Reasoning Index (PRI) are also independently appropriate for selection to programs for the gifted, especially for culturally diverse, bilingual, twice exceptional students or visual-spatial learners.

**We also recommend the explicit mention of nonverbal IQ measures.** Students with autism, hearing loss or auditory processing problems, for example, are prone to having deflated IQ scores when tested with the standard WISC-IV or Stanford Binet V, which fail to identify their strengths. For example, recent research has shown that individuals with autism almost always score higher on non-verbal tests of intelligence with common discrepancies as large as 30 points.

16.21.e

**We recommend removing new overly restrictive language.** As currently stated, protections in evaluation don't apply to 504 students. Legally, however, protections in evaluations must apply to all students with disabilities, regardless of whether they have learning needs to meet the second prong of the IDEA. For example, a student with a temporary condition such as a broken arm should not be given an IQ test that requires rapid writing, and then penalized for a low score owing to the temporary disability. Furthermore, one should not need to have a "documented or validated" disability in order to have protections in evaluation. Sometimes the disability is only discovered in the course of the educational evaluation. If disability is SUSPECTED, that should be enough to protect the student in testing so that tests yield accurate information about the student's strengths and needs.

16.22

Under a suggested regulation change in the newest draft, it is the GMDT and not the GIEP team that determines eligibility, but a GMDT team meeting is not required. Many districts currently do not hold GMDT meetings and will not hold one unless it is required. However, parents should have the opportunity to discuss the child's needs prior to the district making gifted determination. We predict that this rule change will lead to increased litigation, as the only way parents will even get to hear the District's interpretation of the test results will be at a due process hearing. **To amend this, we propose requiring GMDT meetings rather than just written reports.**

16.32.g.4

Some district make parents wait an inordinate amount of time (up to 6 months!) between request for a GIEP meeting and actually holding one. **We suggest a reasonable time period of 30 calendar days as the maximum delay between request and meeting.**

We also propose a new section on complaints

**There needs to be a way to address both individual and systematic violations of the chapter 16**

**regulations, aside from the due process system.** And while we applaud the addition of cyclical compliance monitoring, issues of substance will not be addressed, leaving due process as the only option. However, due process is reserved only for the wealthy since most parents cannot afford attorney fees, private evaluations, or expert witness fees. The current system discriminates against minorities, low income individuals, and students with disabilities, but a complaint system similar to those found in Kansas, Ohio, California, Oregon and Florida would enable any parent to pursue enforcement of this regulation.

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