

# Regulatory Analysis Form

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

11:23 AM

IRRC Number: 2696

(1) Agency

State Board of Education

(2) I.D. Number (Governor's Office Use)

006-312

(3) Short Title

Chapter 4 – Academic Standards and Assessment

(4) PA Code Cite

22 Pa. Code Chapter 4

(5) Agency Contacts & Telephone Numbers

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(6) Type of Rulemaking (check one)

- Proposed Rulemaking
- Final Order Adopting Regulation
- Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
- Yes: By the Attorney General
- Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

Chapter 4 establishes state academic standards that describe what students should know and be able to do at specified grade levels and upon graduation. It also establishes the state assessment system and requirements for local assessment systems which are to measure individual student achievement of the state standards. The state assessment is also to measure the performance of each school. The proposed regulations expand and refine the current options currently available to school districts to determine whether students have met the standards in reading, writing, mathematics, science and social studies. It also adds science and social studies to the existing subjects of reading, writing and math that are assessed by state tests. Under this proposal, beginning with the class of 2014, school districts can choose to use the PSSA, newly developed Graduation Competency Assessments, validated local assessments or Advanced Placement/International Baccalaureate tests, or any combination of these, to determine whether students meet the state standards and are eligible to receive a high school diploma. In addition, the regulation requires the Department of Education to provide supports to schools to assist students to meet or exceed the state standards. The supports include voluntary model curriculum, supplemental instruction assistance (tutoring, extended learning time, etc.) and professional development for teachers.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Section 2603-B of the Public School Code of 1949 (24 P.S. § 26-2603-B).

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The Public School Code of 1949 (24 P.S. 26-2603-B(a) and 26-2604-B(b)(2)(v) and (vii)) states the Board shall have the power, and its duty shall be, to review the statements of policy, standards, rules and regulations formulated by the Council of Basic Education... The Council of Basic Education shall have the power, and its duty shall be to... formulate policy proposals in all educational areas... including, but not limited to: ... graduation and other separation requirements. It also includes: ... the subjects to be taught, and the activities to be conducted in elementary, secondary, adult education and other schools...

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

This proposed regulation is intended to restore value to the high school diploma and provide every student with an opportunity for success in college or work. Establishing a statewide baseline for high school graduate achievement in reading, writing, math, science, and social studies is essential for their post high school success. Failure to adopt this regulation would allow students who have not achieved proficiency in reading, writing, math, social studies, and science to receive a high school diploma. This has a detrimental impact of the student, their family, post-secondary educational success, employment and economic future of the Commonwealth.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Non regulation would allow schools to award diplomas to students not meeting the state academic standards and make them ill prepared to succeed in college and work as well as make them less able to contribute to a productive society. Students awarded diplomas without having essential skills results in additional costs for remediation in post-secondary education and increased screening and training costs for employers.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Students, post-secondary institutions, employers, families and communities will benefit from more rigorous academic standards and accountability measures that prepare students for college and career success.

## Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No individual or entity is expected to be adversely affected by the regulation. According to the proposed regulation, students who do not meet the graduation standards must be given supplemental instructional support by the student's school entity.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All public schools, area vocational technical schools, charter schools and cyber charter schools and public school students are required to comply with the regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The State Board of Education committee charged with the responsibility to review and revise Chapter 4 held six regional public roundtable meetings, a public hearing and five public committee meetings. Each of these forums presented opportunities for interested parties and stakeholders to provide input to the committee. In addition, the Council of Basic Education offered an opportunity for public comment before the Council took action at its meeting on January 16, 2008. The State Board of Education also accepted public comment before it approved the regulation on January 17, 2008. Copies of discussion papers, concept papers and draft regulations were posted on the State Board web page throughout the development of the regulation.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

GCAs and the high school graduation requirements will help ensure that high school graduates have college and career ready skills necessary so that as many as one-third of Pennsylvania's college freshman will no longer need to take remedial reading, writing or math courses. The annual cost to Pennsylvania's public colleges and universities to offer and students to take remedial classes is \$22,867,706 for community colleges and \$5,792,640 for state universities.

Further, high school graduates entering the workforce require the college and career ready skills necessary to solidify quality employment. The percent of jobs requiring skilled or professional labor has risen from 30% in 1950 to 70% in 2002. By increasing the education levels and employability of high school graduates, students, governments and our state economy will prosper.

## Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Local government will face no additional cost associated with compliance. As described below, the state will pay the full cost of Graduation Competency Assessment creation and administration. The state will also provide professional development and additional supports such as a voluntary model curriculum, at no cost to school districts.

Districts will incur savings of approximately \$8.0 million annually resulting from the adoption and use of the voluntary model state curriculum. These savings result from reduced staff time, consultant fees, materials, research and development costs, etc. In addition, districts will save in excess of \$220,000 annually in staff time, copy costs for the development and administration of individual teacher, school or district wide final course exams.

The proposed regulations require that students receive supplemental instructional support if they do not score proficient or above on a GCA or one or more of the 11<sup>th</sup> grade PSSA tests. Based on the 2006-07 PSSA, nearly 63,000 students would require assistance in math, 47,000 assistance in reading and 16,000 assistance in writing. Since the core purpose of public education and its annual expenditure of over \$20.0 billion is to prepare students for their role as educated, proficient and productive citizens of Pennsylvania, every dollar spent by schools, in addition to state targeted assistance, should be to ensure that every student awarded a high school diploma meets or exceeds the state academic standards. School districts already have considerable state resources to support this work and plans are in place for additional funding to schools over the next six years. Current and future funding include:

- \$66 million for tutoring and extra instructional time targeted to students who are struggling to reach proficiency. (2008-9 proposed budget)
- \$275 million in Accountability Block Grant funds offers tutoring as one of the proven programs for which schools districts may utilize these funds. (2008-9 proposed budget)
- Through the basic education subsidy, Pennsylvania invested \$4.951 billion in 2007-8 and proposes an additional \$291.3 million, increasing the subsidy to \$5.242 billion for 2008-9.
- In addition, the Governor has proposed an increased investment of \$2.6 billion in basic education funding over 6 years, 2008-09 through 2013-14, to reduce the school funding gap as recommended by the General Assembly's "Costing-Out Report."

The regulations also require that the Department offer professional development to school personnel in each of the content areas assessed by the GCAs. This requirement builds upon several existing professional development requirements contained in both statute and regulation. The Department provides ongoing professional development to school personnel directly through its Governor's Institutes, on-line courses, PATTAN centers, intermediate units, conferences, workshops and grant programs. State funds directly available to districts for this purpose include \$275 million in Accountability Block Grant (2008-09 proposed budget). The state also intends to spend \$47 million on professional development (2008-09 proposed budget) for a variety of purposes.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The state will develop the GCAs at an estimated cost of \$5.0 million per assessment. Since the Algebra II assessment has been developed through an inter-state partnership, 9 exams would need to be developed at a total cost of \$45 million over three years. In 2010-11 a total of 7 GCAs would be administered and starting in 2011-12 a total of 10 GCAs would be administered each year at an estimated annual cost of \$4.0 million per GCA.

The Pennsylvania Department of Education will provide a voluntary model curriculum to support teachers, schools and districts to help students reach proficiency. The costs for development and training in use of voluntary model curriculum and differentiated instruction through 2011 will be approximately \$5.9 million. A model curriculum would be developed in each of the 10 content areas assessed by the GCAs.

The proposed regulations require that students receive supplemental instructional support if they do not score proficient or above on a GCA or the 11<sup>th</sup> grade PSSA. School districts have state resources to use for this purpose including:

- \$66 million for tutoring and extra instructional time for students who are struggling to reach proficiency. (2008-09 proposed budget)
- \$275 million in Accountability Block Grant funds offers tutoring funds as one of the proven programs for schools districts (2008-09 proposed budget)
- Through the basic education subsidy, Pennsylvania invested \$4.951 billion in 2007-08 and proposes an additional \$291.3 million for 2008-09, increasing the subsidy to \$5.242 billion.
- In addition, the commonwealth has proposed a total investment of \$2.6 billion over the next 6 years to reduce the school funding gap as recommended by the General Assembly's "Costing-Out Report."

Professional development is not a new requirement created by the regulation and has always been necessary to enable students to reach proficiency. State funds directly available to districts for this purpose include \$275 million in Accountability Block Grant (2008-09) proposed budget). The state also intends to spend \$47 million on professional development (2008-09 proposed budget) for a variety of purposes.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year 07-08	FY +1 Year 08-09	FY +2 Year 09-10	FY +3 Year 10-11	FY +4 Year 11-12	FY +5 Year 12-13
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$8.088 million	\$8.157 million	\$8.220 million
State Government	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Savings</b>				\$8.088 million	\$8.157 million	\$8.220 million
<b>COSTS:</b>						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$19.2 million	\$16.3 million	\$43.4 million	\$40.0 million	\$40.0 million
<b>Total Costs</b>	\$0	\$19.2 million	\$16.3 million	\$43.4 million	\$40.0 million	\$40.0 million
<b>REVENUE LOSSES:</b>						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Revenue Losses</b>	\$0	\$0	\$0	\$0	\$0	\$0

(20a) Explain how the cost estimates listed above were derived.

Savings to school districts and AVTS would result from adoption of the voluntary model state curriculum. Savings will also result from school district use of GCAs in place of locally developed and administered final course exams. Districts could save at least \$100,000 over three years by not incurring staffing, consultant, material, research and development and related costs associated with development of curriculum in the four academic areas covered by GCAs. It is estimated that approximately 250 school districts initially will use the model state curriculum.

State government costs directly attributable to these regulations include development and administration of GCAs and development of model curricula for content areas assessed by GCAs. Costs associated with professional development and remediation are subsumed within current and future appropriations for the Educational Assistance Program, Accountability Block grant, Teacher Professional Development, federal Title I funding and most significant, proposed increases in the basic education subsidy. GCA test development costs are estimated at \$5.0 million per test with 3 tests

## Regulatory Analysis Form

(20a) continued...

developed each year through 2010-11. The cost of development of an end-of-course test in Algebra II has already been completed through Project 720. Pennsylvania took part in an interstate consortium that developed an Algebra II end of course test. Test administration costs are estimated at \$4.0 million per test per year. Seven GCAs would be administered in 2010-11 and 10 tests administered each year starting in 2011-12. The model curricula will be based on exemplary models currently used in Pennsylvania's schools. The costs for development and training in use of voluntary model curriculum and differentiated instruction is estimated at \$5.9 million over 3 years.

(20b) Provide the past three year expenditure history for programs affected by the regulation

Program	FY -3 04-05	FY -2 05-06	FY -1 06-07	Current FY 07-08
Basic Education Subsidy	\$4,361,024,000	\$4,492,184,000	\$4,784,264,000	\$4,951,429,000
Pennsylvania Assessment	\$20,356,000	\$20,356,000	\$20,094,000	\$31,619,000
Accountability Block Grant	\$200,000,000	\$200,000,000	\$250,000,000	\$275,000,000
Educational Assistance Program	\$38,000,000	\$66,000,000	\$66,000,000	\$66,000,000
Teacher Professional Development	\$3,867,000	\$13,867,000	\$23,367,000	\$30,367,000

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The Commonwealth, through its 501 local school districts, spends over \$21.0 billion each year to educate its 1.8 million public school students. In 2007-08 the Commonwealth provided nearly \$9.4 billion in support of its public schools. Since 1999 State Board policy has required that school districts provide the necessary educational supports to allow students to meet or exceed the state's academic standards. Repeated administration of the state assessment demonstrate that tens of thousands of graduates each year (57,000 last year) are awarded diplomas and sent out into the world without possessing essential basic skills necessary for success in today's world. This results in diminished opportunities for the graduate, their family and the overall economic vitality and quality of life in the Commonwealth. By setting a statewide minimum standard for high school diplomas awarded in Pennsylvania and putting in place a rigorous, fair and flexible system of measures to designed to assure the standard is met, the Commonwealth will ensure that taxpayer dollars are producing results critical to our economic future.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

State high school graduation requirements can only be addressed by statute or regulation.

## Regulatory Analysis Form

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No other strategies were considered since only legal authority provided by statute or regulation will address this issue.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

The federal government has not established high school graduation requirements.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Students in 22 states have to pass exit exams to receive a high school diploma. They are Alabama, Alaska, Arizona, California, Florida, Georgia, Idaho, Indiana, Louisiana, Massachusetts, Minnesota, Mississippi, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, South Carolina, Tennessee, Texas, and Virginia.

The requirements do not place the Commonwealth at a competitive disadvantage with other states. In fact, failure to adopt the proposed regulation will put Pennsylvania significantly behind other states in ensuring that all students graduate with the skills and knowledge required for college and career success.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

As outlined in number 16, six public roundtable meetings, one public hearing and five public committee meetings were already held. Therefore, additional meetings are not planned.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Yes. Section 4.24(g) adds a requirement that GCA and validated local assessment scores be placed on student transcripts. The Board has required school districts to include PSSA scores on student transcripts since 2003.



## Regulatory Analysis Form

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The proposed regulations require the Department of Education to provide support to school districts and area vocational technical schools that help students acquire the academic standards under Section 4.12. These supports include the establishment of a voluntary model curriculum; assistance in the development of effective student tutoring, remediation, and extended instructional programs; and opportunities for continuing professional education designed to improve instruction.

Additionally, the regulations propose to give students who do not meet the graduation standards mandatory supplemental instructional support by the student's school entity.

The proposed regulation allows students to retake any GCA module, in which the student did not score proficient or above, up to three times each year.

The proposed regulation maintains current policy that provides, for students with disabilities, that the individualized education plan team determines the student's educational objectives necessary for graduation.

The proposed regulation also requires the Department to provide guidance to school districts in the provision of appropriate accommodations for students with disabilities and English language learners in taking the state assessments.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation would be effective upon publication of the final form regulation in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

It is the policy and normal practice of the State Board of Education to review its regulations every four years.

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FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

11:23 AM

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Executive or Independent  
Agencies.

By: Amy M. Elliott  
(Deputy Attorney General)

State Board of Education  
(Agency)

By: Andrew C. Clark

DOCUMENT/FISCAL NOTE NO. #006-312

MAY 01 2008

DATE OF APPROVAL

DATE OF ADOPTION: January 17, 2008

MAR 10 2008

DATE OF APPROVAL

By: J. Binkley

Deputy General Counsel  
(~~Chief Counsel~~),  
(~~Independent Agency~~)  
(~~Strike inapplicable title~~)

TITLE:  
(EXECUTIVE DIRECTOR, CHAIRMAN OR SECRETARY)

( ) Check if applicable  
Copy not approved.

( ) Check if applicable.  
No Attorney General approval  
Or objection within 30 days  
After submission.

PROPOSED REGULATION  
COMMONWEALTH OF PENNSYLVANIA  
22 PA CODE CHAPTER 4  
ACADEMIC STANDARDS AND ASSESSMENT

# **PROPOSED RULEMAKING**

## **STATE BOARD OF EDUCATION**

**[22 PA. CODE CH. 4]**

### **Academic Standards and Assessment**

The State Board of Education (Board) proposes to amend Chapter 4 (relating to academic standards and assessment) to read as set forth in Annex A. The Board is acting under the authority of sections 2603-B and 2604-B of the Public School Code of 1949 (24 P.S. §§ 26-2603-B—2604-B).

#### *Purpose*

Chapter 4 sets forth requirements for State academic standards and assessments and State high school graduation requirements for the Commonwealth's public schools.

#### *Background*

Pennsylvania, like other states in the 1990's, increased its educational standards and high school graduation requirements by adopting State academic standards and establishing a statewide accountability system designed to measure student and school performance. Yet nine years later, these reforms have not yielded consistent results at the high school level. One-quarter of our students do not graduate from high school on time. Nearly 40% of those who graduate—57,000 students each year—are awarded diplomas without having passed the State's reading, writing and math tests. Less than half of our high school graduates enroll in college upon graduation and only 37% make it to their sophomore year. Only one-third graduate from college on time.

These results severely limit economic opportunity for thousands of graduates to earn a living wage; they erode the Commonwealth's overall competitiveness for jobs, and reduce our future tax base thereby reducing resources available for vital government services. Every student must graduate from high school with the knowledge and skills that are essential for college and career success if our Commonwealth's economy is to fulfill its promise.

As social and economic forces have demanded a more highly educated citizenry, the Board has responded by increasing the State's high school graduation requirements over time. In 1963, the Board required students to successfully complete 13 credit units of study in grades 10 – 12. Over the next three decades, the Board increased state high school graduation requirements, eventually to require successful completion of 21 course credits in grades 9 – 12. Then, in 1993, the Board eliminated high school course and credit requirements and replaced them with 56 student learning outcomes—the precursor to today's State academic standards. The student learning outcomes describe what students should know and be able to do upon graduation. School districts were charged with developing the assessment systems that would determine whether students achieved the student learning outcomes. At the same time, a state assessment system was established to assess the academic performance of each school.

In 1999, the Board established the State academic standards, which provide a clear and detailed description of what students were expected to know and be able to do. The Pennsylvania System of School Assessment (PSSA) was redesigned to measure both school and individual student achievement of the State academic standards. The Board also required school district high school graduation policies to address: course

completion and grades; completion of a culminating project; and results of local assessments aligned with the academic standards. The policy also required students, beginning in 2002-03, to demonstrate proficiency in reading, writing and mathematics on the PSSA or local assessments aligned with State academic standards and State assessment at the proficient level or above to graduate.

At the time, the Board believed this policy reflected a reasonable approach that honored the tenets of local control. However, as stated at the time in the *Pennsylvania Bulletin*:

*Graduation requirements.* The Senate Committee, members of the House Committee and staff of IRRC sought greater clarity in the graduation requirements including a determination of whether and when a proficient level on State assessments is required for graduation. Language in § 4.24(a) (relating to high school graduation requirements) was amended in the final-form version to clarify that students graduating in 2002-2003 must demonstrate the attainment of academic standards in reading, writing and mathematics at the proficient level on State assessments or local assessments aligned with the academic standards and State assessments.

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*Comparability of local assessment.* Members of the House and Senate Committees and IRRC staff recommended that there be established a process for determining the comparability of local assessment. Language under § 4.24(a) was changed so that local assessments must be aligned with academic standards and State assessments. The most certain evidence of the comparability or degree of alignment between these assessments will come from repeated administrations of State assessments and local assessments. If it becomes apparent that large numbers of students not achieving at the proficient level on State assessments are deemed proficient by local assessments, regulation and administrative review will become important. Until then, the Board does not feel the extra administrative burden for schools and the Department is warranted.

29 Pa.B. 399 (January 16, 1999).

Over the past several years it has become clear that the concerns raised by the House and Senate Education Committees and IRRC as expressed in their comments to the Board were indeed valid.

To address this concern, in September 2005 Governor Rendell established a Commission on College and Career Success. The Commission was given a charge to: define “college and career ready” in mathematics, English and science; examine and make specific recommendations for better alignment of academic standards and assessments across the secondary and post-secondary educational sectors, as well as industry in Pennsylvania; encourage local school districts to adopt a core high school curriculum for all Pennsylvania students; present to the Governor a legislative and regulatory package that would address the needs outlined in their findings; and to investigate policies and programs that ensure a higher number of prepared students enter and remain in our colleges and universities.

The Commission delivered its report to the Governor in December 2006. The proposed regulations, with several modifications, implement the Commission’s recommendations. The modifications are based on input the Board received at six regional public roundtable meetings, one public hearing and five public committee meetings.

*Requirements of the Proposed Rulemaking*

The proposed rulemaking would amend the following items:

§ 4.3 (*relating to definitions*). The Board proposes to add definitions of the two State assessments: “Pennsylvania System of School Assessment” and “Graduation Competency Assessments.”

§ 4.4(e) (relating to general policies). The Board proposes to add requirements that the Department of Education provide the supports and assistance necessary for school districts and AVTSs to assist students to attain proficiency in the State academic standards, including the development of a voluntary model curriculum; effective student tutoring, remediation and extended instructional time programs; and continuing professional education for teachers.

§ 4.24 (relating to high school graduation requirement). The Board proposes to continue the existing State high school graduation requirements through the 2012-2013 school year. Beginning in the 2013-14 school year, each school district and AVTS, including charter schools, would be required to specify requirements for high school graduation in their strategic plan. At a minimum, these requirements would include: course completion and grades; culminating project; demonstration of proficiency in each of the academic standards not assessed by the State; and proficiency in reading, writing, math, science and social studies using one or any combination of the following—PSSA, GCAs, Advanced Placement/International Baccalaureate exams or validated local assessments. The Board also proposes to require school entities to provide any student who does not score proficient or above on the 11<sup>th</sup> grade PSSA or GCA administered in any grade with supplemental instructional support to assist the student to attain proficiency in the State academic standards.

The Board proposes to eliminate the Pennsylvania Certificates of Proficiency and Distinction. Since under the new high school graduation requirements every student awarded a high school diploma would meet State standards, the certificates are no longer necessary. The Board also proposes to add GCA scores and locally validated assessment scores to each student's academic transcript. Regulations in place since 2001 have required that a student's PSSA scores be included on the student's transcript.

§ 4.51 (relating to State assessment system). In order to distinguish between different State assessments, the Board proposes to revise the term "State assessment" as used in subsections (b) and (d) to mean the "PSSA". A new proposed subsection (e) would direct the Department to develop GCAs in math (3), language arts (2), social studies (3), and science (2). The new requirement would provide that GCAs be offered at

least three times each year and that the scores of candidates for graduation be provided to the student's school no later than 10 calendar days prior to graduation. Proposed language also would require the GCAs to be designed as modules of sequenced, related content, so that students who do not score proficient need only retake those portions of the test in which they did not score proficient. Proposed language also would direct the Department to provide guidance to school entities regarding appropriate accommodations for students with disabilities and English language learners.

§ 4.52 (*relating to local assessment system*). The Board proposes to add language that allows schools to use GCAs in place of traditional final exams administered at the middle or high school level.

#### *Affected Parties*

The proposed rulemaking would affect the students and professional employees of the public schools of this Commonwealth.

#### *Cost and Paperwork Estimates*

Direct costs to the Commonwealth include the cost to develop the Graduation Competency Assessments which is estimated at \$15 million over 3 years. Costs to the Commonwealth to administer, score and report the ten tests are estimated at \$40.0 million each year. The cost to the Commonwealth to develop the voluntary model curriculum in 10 subjects is estimated at \$5.9 million over three years.

#### *Effective Date*

The proposed rulemaking would become effective upon final publication in the *Pennsylvania Bulletin*.

#### *Sunset Date*

The Board will review the effectiveness of Chapter 4 every 4 years in accordance with the Board's policy and practice respecting all of its regulations. Thus, no sunset date is necessary.



### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 2, 2008, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Education. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

### *Public Comments and Contact Person*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, [jbuckheit@state.pa.us](mailto:jbuckheit@state.pa.us). Comments must be submitted within 30 days following publication in the *Pennsylvania Bulletin*.

Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling Jim Buckheit at (717) 787-3787 or TDD (717) 787-7367.

JIM BUCKHEIT,  
Executive Director

ANNEX A  
TITLE 22. EDUCATION  
PART I. STATE BOARD OF EDUCATION  
CHAPTER 4  
ACADEMIC STANDARDS AND ASSESSMENT

§ 4.3. Definitions.

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GCAs—Graduation competency assessments.

\*\*\*\*\*

PSSA—Pennsylvania System of School Assessment.

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§ 4.4. General policies.

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(e) The Department shall provide support to school districts and AVTSs in developing educational programs that enable students to attain academic standards under § 4.12. Department support shall include:

(1) Establishment of a voluntary model curriculum aligned with State academic standards in each of the content areas assessed by the GCAs under § 4.51(c) (relating to State assessment system).

(2) Assistance in the development of effective student tutoring, remediation and extended instructional time programs.

(3) Opportunities for continuing professional education designed to improve instruction in each of content areas assessed by the GCAs under § 4.51(e).

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§ 4.24. High school graduation requirements.

(a) Requirements through the 2012-2013 school year. Each school district, including charter schools, shall specify requirements for graduation in the strategic plan under § 4.13 (relating to strategic plans). Requirements through the 2012-13 school year shall include course completion and grades, completion of a culminating project, [and] results of local assessments aligned with the academic standards[. Beginning in the 2002-2003 school year, students shall demonstrate] and a demonstration of proficiency in reading, writing and mathematics on either the State assessments administered in grade 11 or 12 or local assessment aligned with academic standards and State assessments under § 4.52 (relating to local assessment system) at the proficient level or better to graduate. The purpose of the culminating project is to assure that students are able to apply, analyze, synthesize and evaluate information and communicate significant knowledge and understanding.

(b) [Beginning in the 2002-2003 school year, students who attain a score at the proficient level on any State assessed discipline administered in grade 10, 11 or 12 shall be granted a Pennsylvania Certificate of Proficiency for that discipline. Students with disabilities who meet the required proficiency level on State assessments with appropriate accommodations shall be granted a Pennsylvania Certificate of Proficiency.] Requirements beginning in the 2013-2014 school year.

(1) General. Beginning in the 2013-14 school year, each school district and AVTS, including charter schools, shall specify requirements for high school graduation in the strategic plan under § 4.13 that shall, at a minimum, include:

(i) Course completion and grades.

(ii) Completion of a culminating project in one or more areas of concentrated study under the guidance and direction of the high school faculty. The purpose of the project, which may include research, writing or some other appropriate form of demonstration, is to assure that the student is able to apply, analyze, synthesize and evaluate information and communicate significant knowledge and understanding. Projects may be undertaken by individual students or groups of students.

(iii) Demonstration of proficiency, as assessed and determined by the school district or AVTS (including charter schools), in each of the State academic standards not assessed by a State assessment under § 4.51 (relating to State assessment system).

(iv) Demonstration of proficiency or above in each of the following State academic standards: reading, writing and mathematics (Appendix A); science and technology and environment and ecology (Appendix B), as assessed through any one or a combination of the following:

(A) The PSSA administered in 11th grade or 12th grade retest.

(B) The English composition and literature GCAs, any two mathematics GCAs and either science GCA.

(C) Locally administered, validated criterion referenced assessments comparable to the GCAs. The local assessments shall be independently and objectively validated by a vendor selected by the school entity from a list of approved vendors published every five years by the Secretary after obtaining the approval of the Board.

(D) Advanced Placement or International Baccalaureate exams that include academic content comparable to the appropriate GCA at a score established by the Secretary to be comparable to the proficient level on the appropriate GCA.

(v) Demonstration of proficiency or above in the State academic standards in civics and government or history in any one of the social studies GCAs as provided in § 4.51(e)(3), a validated local assessment under subparagraph (iv)(C), or a comparable Advanced Placement or International Baccalaureate exam.

(2) Validation of local assessments.

(i) In developing and selecting the list of approved vendors that may validate locally administered assessments described by paragraph (1)(iv)(C), the Secretary shall employ a competitive request-for-qualifications process that includes consideration of:

(A) Organizational and staff experience in the validation of State and local assessments.

(B) Appropriate use of generally accepted psychometric statistical methods, practices and analysis.

(C) References.

(D) Cost.

(ii) With the concurrence of the Board, the Secretary, may issue an additional request for qualifications prior to the end of the five-year period prescribed by paragraph (1)(iv)(C), should the demand for validation services exceed the capacity of approved vendors.

(iii) The school entity shall contract and pay the cost of validating each local assessment.

(iv) Each local assessment shall be validated by an approved vendor every five years. Except for replacement of individual test items of comparable rigor, a new validation is required for any material changes to the assessment or revision of the assessed State academic standards.

Approved vendors shall include the following criteria when determining whether the local assessment is comparable to the GCAs under § 4.51(e):

(A) Assessments are internally consistent and replicable.

(B) Assessments adequately measure and are aligned with the academic content specified in the State academic standards assessed by the GCAs.

(C) Level of difficulty of assessment items is greater than or equal to those assessed on the GCAs.

(D) Proficiency level cut scores are greater than or equal to that of the GCAs.

(E) Results of local assessments correlate positively and significantly with related national and state criterion referenced assessments.

(F) Test administration, security and scoring regimes ensure that the integrity and validity of the local assessment is maintained.

(G) Policy for annually updating assessment items ensures compliance with clauses (A) through (F).

(c) [Beginning in the 2002-2003 school year, students who attain a score at the advanced level of proficiency on any State assessed discipline administered in grade

10, 11 or 12 shall be granted a Pennsylvania Certificate of Distinction for that discipline. Students with disabilities who meet the required proficiency level on State assessments with appropriate accommodations shall be granted a Pennsylvania Certificate of Distinction.] Supplemental instruction. A student who does not score proficient or above on a PSSA administered in 11th grade or GCA administered in any grade shall be provided supplemental instructional support by the student's school entity. The supplemental instructional support shall assist the student to attain proficiency in the State academic standards.

(d) Strategic plan. Each school district, including charter schools, shall describe in its strategic plan under § 4.13 how its planned instruction is designed to prepare students to meet the requirements of [subsection] subsections (a) and (b).

(e) Special education students. Children with disabilities who satisfactorily complete a special education program developed by an Individualized Education Program team under the Individuals with Disabilities Education Act and this part shall be granted and issued a regular high school diploma by the school district of residence. This subsection applies if the special education program of a child with a disability does not otherwise meet all requirements of this chapter. [Children with disabilities who meet the required proficiency level on State assessments shall be granted the appropriate Certificate of Proficiency or Distinction.]

(f) Demonstration of proficiency. [The Department will develop Pennsylvania Certificates of Proficiency and Distinction for each of the State assessed disciplines. The Department will distribute the certificates to each school district in sufficient quantity for the school district to issue to its students who have earned the Certificates. School districts shall enter student names on the appropriate certificate as described in subsections (b) and (c) and present the certificates to the student.] For purposes of this section, students shall be deemed proficient in the State assessed standards whenever they demonstrate proficiency through any of the assessment options enumerated in subsection (b), regardless of the student's grade level or age.

(g) [The Department will develop, or cause to be developed, Certificates of Proficiency so as to acknowledge and recognize those students who attain a level of

at least proficient in all State assessed disciplines. The certificates must be distinctive and differentiated from the certificates described in subsection (f). The certificates shall be awarded to students as appropriate in lieu of those prescribed in subsection (b).

(h) The Department will develop, or cause to be developed, Certificates of Distinction so as to acknowledge and recognize those students who attain a score at the advanced level of proficiency in all State assessed disciplines. The certificates must be distinctive and differentiated from the certificates described in subsection (f). The certificates shall be awarded to students as appropriate in lieu of those prescribed in subsection (c).

(i) Transcripts. Beginning in the 2003-04 school year, PSSA scores in each assessed discipline, and beginning in the 2013-14 school year, GCA or validated local assessment scores, shall be included on student transcripts and may be released only with the permission of the student and parent or guardian, or the student only if the student is 18 years of age or older.

[(j)] (h) Release of scores. This section does not allow for the release of individual student PSSA or GCA scores to the Department or other Commonwealth entities in accordance with § 4.51(c) [(relating to State assessment system)].

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#### § 4.51. State assessment system.

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(b) [State assessment] All PSSA instruments administered in reading, writing and mathematics in grades 5, 8 and 11 will be standards-based and criterion referenced and include essay or open-ended response items in addition to other item formats. The proportion of type of items will vary by grade level. Neither State assessments nor academic standards under § 4.12 may require students to hold or express particular attitudes, values or beliefs. The Department will make samples of assessment questions, instrument formats, and scoring guides available to the public after each administration of State assessments. The criteria for judging performance on State assessments are as follows:

(1) Performance on [State] PSSA reading assessments shall be demonstrated by students' responses to comprehension questions about age-appropriate reading passages and by their written responses to in-depth comprehension questions about the passages.

(2) Performance on [State] PSSA mathematics assessments shall be demonstrated by students' responses to questions about grade-appropriate content and by the quality of their responses to questions that require a written solution to a problem.

(3) Performance on [State] PSSA writing assessments shall be demonstrated by the quality of students' written compositions on a variety of topics and modes of writing.

(4) Performance on PSSA science assessments shall be demonstrated by students' responses to grade appropriate content and by the quality of their responses to questions that demonstrate knowledge of each category of the standards for science and technology and environment and ecology.

(5) Levels of proficiency shall be advanced, proficient, basic and below basic. In consultation with educators, students, parents and citizens, the Department will develop and recommend to the Board for its approval specific criteria for advanced, proficient, basic and below basic levels of performance.

(c) The Department will develop or cause to be developed [State] PSSA assessments based on academic standards in mathematics, reading [and], writing and science under § 4.12 and contained in Appendix A. In developing assessments, the Department will consult with educators, students, parents and citizens regarding the specific methods of assessment. To ensure that information regarding student performance is available to parents and teachers, State assessments developed under this section [shall] must include student names. Individual test results shall be used in planning instruction only by parents, teachers, administrators and guidance counselors with a need to know based upon local board policy on testing and in reporting academic progress. The Department or other Commonwealth entities are prohibited from collecting individual student test scores, and may only collect aggregate test scores by school and district.

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(e) Students not achieving at the proficient level in the administration of State assessments in grade 11 shall be provided one additional opportunity in grade 12 to demonstrate a proficient level on [State] the PSSA assessments.

(f) The Department will develop or cause to be developed GCAs as follows:

(1) Three assessments aligned with the mathematics standards, contained in Appendix A, that assess the academic content traditionally included in Algebra I, Algebra II and Geometry courses.

(2) Two assessments aligned with select reading, writing, speaking and listening standards, contained in Appendix A, that assess academic content traditionally included in high school literature and composition courses.



(3) Three assessments aligned with select History and Civics and Government standards, contained in Appendix C, that assess content traditionally included in high school level American history, World history and civics and government courses.

(4) Two assessments aligned with select standards for science and technology and environment and ecology, contained in Appendix B, that assess academic content traditionally included in high school level biology and chemistry courses.

(5) GCAs shall be offered at least 3 times each year, once each in the fall, spring and summer. GCAs shall be reviewed and scored so that the scores for candidates for graduation are provided to schools no later than 10 calendar days prior to graduation.

(6) Students shall be permitted to retake any GCA, or GCA module, in which the student did not score proficient or above at the next available testing date.

(7) Each GCA may be designed into modules that reflect distinct, related academic content that is common to the traditional progression of coursework to allow students who do not score proficient or above to retake those portions of the test in which they did not score proficient or above.

(8) The Department will provide guidance to school entities as to the appropriate accommodations school entities shall provide to students with disabilities and English language learners, when appropriate.

[(f)] (g) \*\*\*

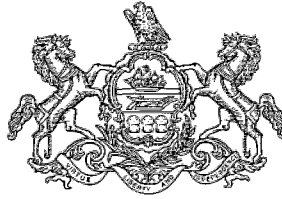
[(g)] (h) \*\*\*

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[(h)] (i) \*\*\*

[(i)] (j) \*\*\*

[(j)] (k) \*\*\*



**Commonwealth of Pennsylvania  
STATE BOARD OF EDUCATION**

May 2, 2008

Mr. Kim Kaufman  
Executive Director  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, 333 Market Street  
Harrisburg, PA 17101

Dear Mr. Kaufman:

Enclosed is a copy of proposed State Board of Education regulation 22 Pa. Code, Chapter 4, Academic Standards and Assessment (#006-312) for review by the Commission pursuant to the provisions of section 5 (c) of the Regulatory Review Act.

The State Board of Education will provide the Commission with any assistance it requires to facilitate a thorough review of these proposed regulations.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Buckheit".

Jim Buckheit  
Executive Director

cc: Gerald Zahorchak  
Gregory Dunlap, Esq.  
Teresa Colarusso

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 6-312  
 SUBJECT: ACADEMIC STANDARDS AND ASSESSMENT  
 AGENCY: STATE BOARD OF EDUCATION

**TYPE OF REGULATION**

- X Proposed Regulation  
 Final Regulation  
 Final Regulation with Notice of Proposed Rulemaking Omitted  
 120-day Emergency Certification of the Attorney General  
 120-day Emergency Certification of the Governor  
 Delivery of Tolled Regulation  
 a. With Revisions                      b. Without Revisions

**RECEIVED**

MAY - 2 REC'D

INDEPENDENT REGULATORY  
REVIEW COMMISSION

11:23 AM

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
5-2-08	<u>Spencer</u>	HOUSE COMMITTEE ON EDUCATION
5/2/08	<u>A. Edwards</u>	MAJORITY CHAIRMAN <u>James R. Roebuck, Jr.</u>
5-2-08	<u>A. Rybalczyk</u>	SENATE COMMITTEE ON EDUCATION
5-2-08	<u>M. Armstrong</u>	MAJORITY CHAIRMAN <u>James J. Rhoades</u>
5/2/08	<u>K. Cooper</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
5/2/08	<u>C. DeLeon</u>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)