



2696

October 9, 2009

RECEIVED

State Board of Education
333 Market Street, 2nd Floor
Harrisburg, Pa. 17126-0333

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Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, Pa. 17101

RE: 22 Pa. Code Chapter 4 Regulations for Academic Standards and Assessment (2696) proposed for final approval by the IRRC.

The Arc of Pennsylvania, affiliated with The Arc of the United States, is the largest grassroots, non-profit advocacy organization in Pennsylvania for citizens with intellectual and developmental disabilities and their families. The Arc of Pennsylvania is the state chapter of the Arc and works with 36 chapters in 52 counties across Pennsylvania. The Arc's mission is to include all children and adults with intellectual and developmental disabilities in every community.

As an advocacy organization, The Arc of Pennsylvania strongly objects to the Keystone Graduation Exams proposed by the State Board of Education. While we recognize that strong academic standards and accurate, measurable outcomes are essential for the success of our high school graduates, we strongly believe that the proposed Keystone Exams will not only fail to achieve the desired outcome, but will actually cause significant harm to our schools and students in a number of areas.

Students with disabilities are not just those identified students with Individual Education Plan's (I.E.P.'s), but include ALL students struggling who may or may not be identified for formal special education support services under IDEA. Students with socio economic disadvantages, such as English as a second language learners (ESL), and students from economically disadvantaged families also have a strong stake in the outcome of this debate, and advocacy voices for these populations have largely fallen on deaf ears, concerns have been marginalized and comments gone unaddressed.

The Arc of Pennsylvania's continuing concerns include:

1. Student's with I.E.P.'s right to "opt out" of the Keystone Graduation Exams if their educational team deems it appropriate. (Section 4.24 (e)):
 - All IEP's, even those of children with the most profound challenges, are to be aligned to state standards for curriculum. All IEP's should be written on a continuum with the ultimate goal being that all students get as far along the spectrum of educational proficiency as their skills will allow. Students with more challenging disabilities may never achieve "basic" or "proficient" on any standardized test, but their educational goal is ALWAYS to do so, no matter how far away they may seem. Accordingly, when a students team "opts out" of the

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Keystone Exam, even one with accommodations, they also “opt them out” of the remediation and re-teaching available to students who have fewer or less complicated challenges. This poses a number of additional problems.

- The Arc of Pennsylvania supports full inclusion efforts for ALL students, regardless of nature and degree of disability. The Advisory Panel from the Gaskin Settlement, and many community advocates, have worked diligently over the past years to help schools adopt more inclusive practices. The implementation of any high stakes graduation exams will harm the efforts of inclusion, and help to keep Pennsylvania’s abysmal record of 40th in the country on inclusive practices. Students with IEP’s who opt out of the test but who are already in inclusive settings will be marginalized to a mere physical presence. In order to help the school district make it’s Adequate Yearly Progress (AYP) targets, the classroom teacher will be making concerted effort to “teach to the test” and remediate and re-teach, so that those students who DO have to take the test will have the greatest chance of scoring proficient. Teachers will have one more barrier to teaching the contents of instruction in an inclusive manner to all students.
- The Arc of Pennsylvania predicts that, should high stakes graduation exams be implemented: more educational teams will refer marginal students for evaluation for special education eligibility; more students with disabilities will have their teams pushing for “opting out”, thereby avoiding having that student’s statistics included in the schools AYP scores; less time and resources will be available to implement IEPs in an inclusive setting; an increased burden on special education departments to serve these students; increased dissatisfaction from parents and advocates of students with disabilities, increased claims that these students are being denied a Free and Appropriate Public Education (FAPE) under IDEA, resulting in increased Due Process hearings for the Department of Education Office of Dispute Resolution; -- all at great financial and educational loss to all of our students.

2. The Arc of Pennsylvania has serious concerns about the scoring of these exams for students with disabilities who DO NOT opt out of them through IEP team decisions. Under existing scoring procedures used in most schools, students receive percentage grades for all tests, which are then averaged into their final course grades. A 50% was still a 50%. Despite the fact that this is a “failing” grade, the student still received credit in his final grade for knowing 50% of the material. Under the proposed Keystone high stakes system, if a student scores below basic, he will have a 0% averaged into his final course grade, and counted for 1/3 of the grade (or more). Overall, this method of calculation will bring all students’ QPA’s down, and will have significantly greater impact on “marginal” students or students with disabilities.

There are many students with IEP’s who, while they need accommodations in both teaching and testing, should not opt out of the exams. Students with mild mental retardation and other learning disabilities may have the full capacity, with the right supports, to graduate with credits on the basis of their grades, as opposed to graduating on the IEP’s. These students will need their credits and their grades to move on to

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higher learning, whether it be a community college or a technical school. These students will be punished by the way the grades will be calculated. The psychological stress they will incur as a result of having to take multiple tests, multiple modules, and then finally do an “alternative project” will cause a serious impact on their grades. These are our future drop outs. This system is not set up to support their success, but rather to allow them to be, once again, marginalized and excluded from inclusive schooling and ultimately inclusive life in their community and contributing members to the workforce. The end result is contrary to the Governor’s stated purpose for the exams.

3. Despite the new version of the Keystone exams indicating that they are “voluntary”, they are in reality anything but voluntary. Section 4.51 (f) (11) of the proposed Keystone exams indicates that the exams “shall be made available for voluntary use by school districts...” Section 4.51 (f)(12) goes on immediately to state that “The Department shall seek to have the Keystone Exam system approved s the high school level single accountability system under the No Child Left Behind Act of 2110..... Section 4.51(f) (13) goes on to state that “the 11th grade PSSA exams in reading, writing, math and science shall be discontinued upon implementation of the Keystone exams.....

- Exams which replace the PSSA exams can hardly be considered voluntary. Additionally, the proposed method for validating alternate assessments for districts that “choose” not to opt into the exams is costly to the district and cumbersome, and creates additional, expensive layers by creating the “Local Assessment Validation Advisory Committee”. School districts will be required to pay for 50% of the cost of validating local assessment. This is an additional expense schools will most likely choose not to incur at a time when it has already been determined that most school districts in Pennsylvania are under funded.

4. The current proposed draft of the Keystone exams does not make it clear what type of accommodations will be allowed for students with special needs who wish NOT to opt out of taking the exam. There is no specificity as to what “department guidance” regarding accommodations will look like and who will have the final say in determining appropriate accommodations.

For all of the reasons outlined above, The Arc of Pennsylvania cannot support the proposed Chapter 4 regulations regarding graduation testing. The educational system will be irreparably harmed, at significant cost to students with disabilities, if these proposed regulations are allowed to pass. We respectfully request that the Commission reject the regulations.

Thank you for the opportunity to be part of the continuing dialogue on affording all students in the Commonwealth the right to a free and appropriate education.

Sincerely,
Early Childhood and Education Committee-The Arc of Pennsylvania

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