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**From:** jed.flynn@verizon.net  
**Sent:** Monday, October 19, 2009 9:23 AM  
**To:** IRRC; info@pastatenaacp.org  
**Subject:** Copy of Opposition to IRRC Issue #2696 - This Duplicate of FAX is to IRRC and to PA NAACP state website master  
**Attachments:** NAACP to IRRC Oct 2009.doc

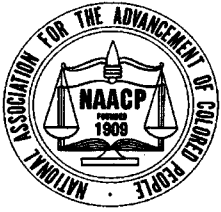
Attached is a copy of the seven (7) page opposition letter sent in regards to IRRC Issue #2696 - State Board of Education Final-Form Reg. No. 006-312; Chapter 4 Regulations - "Keystone Exams" as submitted to PA IRRC by FAX (8:48 AM. Monday, Oct. 19, 2009).

Jess:  
Please post this material on the state web site as: State Conference of NAACP Branches - Official Letter of State Membership Opposition To Keystone Exams.

Submitted to PA IRRC Oct.19, 2009

Thank you.  
JDFlynn

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DIVISION



## PENNSYLVANIA STATE CONFERENCE

P OBox 29740  
Philadelphia, PA 19119

October 19, 2009

Arthur Coccodrilli, Chairman  
Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101  
[irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us)

RE: IRRC ISSUE # 2696  
State Board of Education Final-Form Reg. No. 006-312  
Chapter 4 Regulations – “Keystone Exams”

Dear Mr. Coccodrilli:

The Pennsylvania State Conference of the NAACP on behalf of its statewide membership representing thousands of Pennsylvania tax payers from all walks of life writes to oppose the State Board of Education (Board) Final-Form Regulation No. 006-312 which would revise the current Chapter 4 regulations and establish the “Keystone Exams”. The following opposition is raised by the state coalition of NAACP members.

1. The changes proposed by Final-Form Regulation No. 006-312 will so drastically transform public education (and hence society) as to demand legislative review. Even so, the Board has ignored Legislative intent and proceeded in opposition to the will of the Legislature. We offer a demonstration of Legislative intention by the **attachment of a copy of HR 456** as co-sponsored by 161 members of the PA State Assembly House of Representatives.
2. The Final-Form Regulation creates a system of high stakes tests that threaten the health, safety and welfare of all citizens of the Commonwealth. In the twenty-two states where the high school diploma has been attached to student scores on high stakes tests, there has been an increase in the dropout rates as well as an increase in the incarceration rates (Pew Center: Report on the States 2008).

It is generally reported and rigorously documented that high school drop outs are financially immobilized with the annual earning capacity of an estimated \$19,000. They experience shorter lives than persons with a high school diploma due to the lack of health care. They live in poverty and cannot sustain themselves. They must access public assistance for food and shelter. They must depend on emergency room medical treatment. It will cost tax payers billions of dollars if we push students out of high school with no diploma.

It is well documented that incarceration rates correlate highly with leaving school without a diploma. Health officials site prisons as breeding grounds for communicable diseases. Men especially are known to take such diseases as Hepatitis C and HIV from prison into the community.

The Final-Form Regulations create a system that has a disparate impact on students in underfunded districts. While well funded districts have access to the best practice process of multiple forms of assessment because they can afford validation costs; underfunded districts will be forced to default to the paper and pencil “end of course” tests provided by the state. Hence students who are test phobic or who best display their knowledge and skills through portfolio assessments and/or other evaluative techniques face the systematic, official intimidation of stringent barriers to the high school diploma.

This will eventually lead to litigation costs which have not been addressed in the Board's plan.

3. The fiscal impact of the Final-Form Regulations lacks transparency. The costs to school districts and the Commonwealth are submerged through the use of broad and unclear Department of Education commitments and promises of support as well as unfunded mandates on local education entities. The cost estimates are missing concerning procedures such as developing and validating local assessments, administering and scoring tests, record keeping, and supplemental education when students miss "cut off scores", retesting and rescoreing tests, and for developing, validating, monitoring and assessing "Bridge" projects.
4. The Final-Form Regulations proposal fails to demonstrated need for this regulation. Although the Department of Education began a process to gather information about local assessments in September 2008, it is unclear that the study was completed and that any meaningful information was gained. At the same time, the "Keystone Exams" themselves are presented as optional. The Regulations allow districts with the funds to do so to create and validate various alternative forms of assessments and have them validated with state support at 50% of the cost. Since alternate forms of assessment are considered viable by the Board; the Department of Education has the authority to use information from a complete and valid study of local assessments to provide technical assistance for Districts to improve those without the cost and stringency of the Keystone Exams plan.
5. The Final-Form regulations do not explain how districts are expected to implement the new regulations or why the Board believes this approach is reasonable. Over time, 10 "end of course" tests will be required. To allow time for scheduling school resources, students make course selection around February. End of course exams will have to be taken in the late spring.

There is no way to predict how much will be required in the way of rescheduling and reassignment of professional staff based on student performance on the assessments. Students who miss the cut off scores and who need remediation and retesting in multiple areas face the possibility of a 5 or 6 year high school experience. Educators predict that this will lead to an increase in the dropout rate across Pennsylvania.

6. The General Assembly and members of the public have questioned the Board's statutory authority to determine specific graduation requirements. The IRRC has called upon the Board to address this concern, and the Board has failed to address this concern.
7. The Final-Form regulations are more stringent than and pervert the intention of the Federal Regulations. The purpose for testing and disaggregation of data as required by NCLB is to assess how well schools are educating students. The Board plan as Keystone Exams uses the testing process to punish students for the failure of their schools, to sort them out and marginalize them by withholding their diplomas based on arbitrary and politically determined cut-off scores.

Based upon the failure of the State Board to address the original concerns by the IRRC, and the unfriendly nature of the Keystone Exams, the citizens of Pennsylvania as represented by their membership in the NAACP want you vote to disapprove the final form regulations No. 006-312.

PA State Conference of NAACP Branches

J. Whyatt Mondesire, State President: Philadelphia Branch President

Mrs. Jean Brown: 1<sup>st</sup> Vice President State Executive Board      Mr. John W. Jordan 3<sup>rd</sup> V P: Bucks Co. Branch President

Lacy R. Wheeler 3<sup>rd</sup> Esq. PA State Conference Legal Redress

Education Committee of the Pennsylvania State Conference of NAACP Branches

Dr. Marilyn Barnett      Mrs. Jean C. Brown      Dr. Donna Laws      Dr. George Love      Mrs. Sheila Carter      Dr. Edwina Vold  
Pittsburgh                      1<sup>st</sup> VP State Conf.                      Philadelphia                      Harrisburg                      Darby                      Indiana University

Dr. Joan Duvall-Flynn: Chair - Media Area Branch

See attached HR 456

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 456 Session of  
2009

INTRODUCED BY CLYMER, YOUNGBLOOD, ADOLPH, BAKER, BARBIN, BARRAR, BEAR, BELFANTI, BENNINGHOFF, BEYER, BOBACK, BOYD, BROOKS, BROWN, BURNS, CAUSER, CHRISTIANA, CIVERA, COHEN, CONKLIN, D. COSTA, P. COSTA, COX, CREIGHTON, CRUZ, CUTLER, DALEY, DALLY, DAY, DEASY, DELOZIER, DENLINGER, DIGIROLAMO, DONATUCCI, DRUCKER, ELLIS, J. EVANS, EVERETT, FABRIZIO, FAIRCHILD, FARRY, FLECK, FREEMAN, GABIG, GABLER, GEIST, GERGELY, GIBBONS, GILLESPIE, GINGRICH, GOODMAN, GRELL, GROVE, HARHART, HARPER, HARRIS, HELM, HENNESSEY, HESS, HICKERNELL, HUTCHINSON, JOHNSON, KAUFFMAN, M. KELLER, W. KELLER, KILLION, KIRKLAND, KNOWLES, KORTZ, KOTIK, KRIEGER, LEVDANSKY, MAHER, MAJOR, MARKOSEK, MARSHALL, MARSICO, MATZIE, McILVAINE SMITH, MENSCH, METCALFE, METZGAR, MICOZZIE, MILLARD, MILLER, MILNE, MOUL, MURPHY, MURT, MUSTIO, MYERS, OBERLANDER, OLIVER, O'NEILL, PARKER, PAYNE, PAYTON, PEIFER, PERZEL, PETRI, PHILLIPS, PICKETT, PRESTON, PYLE, QUIGLEY, QUINN, RAPP, READSHAW, REED, REESE, REICHLEY, ROAE, ROCK, ROHRER, ROSS, SAINATO, SANTARSIERO, SAYLOR, SCAVELLO, SCHRODER, SHAPIRO, SIPTROTH, M. SMITH, S. H. SMITH, SOLOBAY, SONNEY, STERN, STEVENSON, SWANGER, TALLMAN, J. TAYLOR, R. TAYLOR, THOMAS, TRUE, TURZAI, VEREB, VITALI, VULAKOVICH, WANSACZ, WATERS, WATSON AND WILLIAMS, SEPTEMBER 14, 2009

REFERRED TO COMMITTEE ON EDUCATION, SEPTEMBER 14, 2009

A CONCURRENT RESOLUTION

Urging Governor Edward G. Rendell to cease funding of implementation of high school graduation requirements until the General Assembly establishes a policy by legislation, requesting the Governor to impress upon his cabinet officials involved in educational policy to regard the desires of the citizens of Pennsylvania, recognizing that actions by public officials that impede the democratic process will be considered as actions in disregard of the officials' assigned constitutional and statutory duties and in disregard of the honor which their constituents have called these officials to uphold, and asking the Independent Regulatory Review Commission to consider whether proposed high school graduation requirements have been given due consideration by the General Assembly and by the Governor, in accordance with the Regulatory Review Act, before a decision is made on final-form regulation of high school graduation requirements.

WHEREAS, The General Assembly declared its intent in a provision of Act

61 of 2008 that in the 2008-2009 fiscal year a regulation to change or establish high school graduation requirements shall not be further promulgated, approved or proposed; and

WHEREAS, During this regulatory moratorium, the Department of Education and the State Board of Education continued to proceed with hearings and meetings to discuss the potential final form regulations; and

WHEREAS, During such time, the Department of Education awarded a \$201.1 million contract to Data Recognition Corporation for the development and implementation of model curriculum, classroom diagnostic tools and assessments to be used as high school graduation requirements without consulting with the General Assembly; and

WHEREAS, It is the constitutional responsibility of the General Assembly to appropriate taxpayer funds; and

WHEREAS, President Obama and the Federal Department of Education have publicly articulated their intent to develop internationally benchmarked academic standards and assessments which will replace state academic standards and assessments; and

WHEREAS, The Senate declared its intent again June 10, 2009, with overwhelming support of Senate Bill No. 281 on final passage, requiring that any Statewide requirements for high school graduation be established only by an act of the General Assembly; and

WHEREAS, Senate Bill No. 281 further provides that the Department of Education will not develop or implement such requirements until the General Assembly specifically appropriates funds for this purpose; and

WHEREAS, On March 17, 2009, House Bill No. 970, with 88 cosponsors, was introduced as a companion bill to Senate Bill No. 281 and referred to the House Education Committee; and

WHEREAS, Nearly all Public School Code bills reported out of the Education Committee since the beginning of this current session have been amended with the prohibition language of House Bill No. 970; and

WHEREAS, Public concern for such regulations continues to grow, and efforts were increased August 3, 2009, with the filing of a petition to discharge Senate Bill No. 281 from committee; and

WHEREAS, Two days after the discharge petition was filed, and a few hours before consideration of the discharge petition by the full House of Representatives was scheduled to occur, the House Education Committee immediately convened and unanimously reported Senate Bill No. 281 out of committee; and

WHEREAS, The Independent Regulatory Review Committee, on July 16, 2008, urged the State Board of Education to work closely with both chambers of the General Assembly and the Senate and House Education Committees to ensure that the final-form regulation is consistent with the intent of the General Assembly; and

WHEREAS, The Pennsylvania State Conference of the National Association for the Advancement of Colored People (NAACP) adopted a resolution August 7, 2009, opposing the draft final-form regulation submitted by the State Board of Education July 9, 2009, and has requested the support of the General Assembly for Senate Bill No.281 by legislative passage of a concurrent resolution; and

WHEREAS, The NAACP finds the regulation for high school graduation requirements to be a civil rights issue and cites the 2008 Pew Center on the States study which demonstrates that the use of exit exams scores to withhold a high school diploma leads to increased dropout rates and an increase in the prison population; and

WHEREAS, Pennsylvania ranks sixth among the top ten states in prison expenditures, 6.2% of the 2006-2007 State budget was allocated for prisons, Pennsylvania spends .81¢ on prison funding for every \$1.00 it invests in higher education, and the annual cost per prisoner is estimated at \$35,000 while the annual cost for educating a student at an in-State college averages \$10,000; and

WHEREAS, The intent of the General Assembly is clear; the opposition of constituents, school boards, education organizations and advocates is consistent and legitimate; and the concerns of the NAACP are valid; it is imperative that their concerns be addressed before any further regulation or funding for graduation requirements is advanced; and

WHEREAS, The Pennsylvania School Boards Association (PSBA) Board of Directors adopted a resolution July 9, 2009, denying support to the State Board of Education's draft final-form regulations, and 209 school boards thus far have passed resolutions in opposition: 199 school boards in 2008 and an additional ten in 2009; and

WHEREAS, On July 13, 2009, the Learning Disabilities Association of Pennsylvania, Inc. (LDAPA) along with the Pennsylvania Association of Career and Technical Administrators (PACTA) and the Pennsylvania Association for Supervision and Curriculum Development (PASCD) declared their opposition to the draft final-form regulation; and

WHEREAS, Governor Edward G. Rendell, on March 31, 2006, filed an Amicus Curiae brief to the United States Court of Appeals, stating the "Pennsylvania Constitution textually commits educational funding to the General Assembly. As a result, educational funding is determined through a legislative process in which the General Assembly must consider various fiscal and educational priorities"; and

WHEREAS, In 1973, the United States Supreme Court ruled that "The consideration and initiation of fundamental reforms with respect to the state taxation and education are matters reserved for the legislative process of the various states....The ultimate solution to educational funding issues must come from the lawmakers and from the democratic pressures of those who elect them"; therefore be it

RESOLVED, (The Senate Concurring) That the General Assembly urge Governor Edward G. Rendell, who recognizes that educational funding and related policies are determined through a legislative process, to cease

any funding of implementation of high school graduation requirements until the General Assembly establishes a policy by legislation, including a specific appropriation, subsequent to discussion and vote by the full Senate and House of Representatives; and be it further

RESOLVED, That the General Assembly request Governor Rendell to impress upon his cabinet officials involved in educational policy to honor the citizens of Pennsylvania who are dependent upon the elected officials of the General Assembly to uphold that which is declared by the Constitution of Pennsylvania; and be it further

RESOLVED, That actions by individuals elected and appointed to serve this Commonwealth that impede the democratic process be considered as actions in disregard of the officials' assigned constitutional and statutory duties and in disregard of the honor to which their constituents, through the democratic process, have called these officials to uphold; and be it further

RESOLVED, That the General Assembly call upon the Independent Regulatory Review Commission to consider whether proposed high school graduation requirements have been given due consideration by the General Assembly and by the Governor, in accordance with the Regulatory Review Act, before a decision is made on final-form regulation of high school graduation requirements.