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To: IRRC
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INDEPENDENT REGULATORY
REVIEW COMMISSION

October 19, 2009
Independent Regulatory Review Commission
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SUBJECT: Issue #2696 Keystone Exams

Dear Members of the IRRC,

I am opposed to the changes to Pennsylvania's Graduation requirements that include Keystone Exams. The following concerns raised by the IRRC when reviewing the draft regulatory changes.

1. Health, safety and welfare. Initial concerns were raised that the new regulations may raise drop-out rates. Although several undefined measures to allow for alternative testing have been included in the final form regulations, the Board has not yet demonstrated how the institution of end-of-course exams as a graduation requirement will not raise the dropout rate.
2. Fiscal impact. Original concerns were raised by the IRRC about the fiscal impact on Districts. In addition to paying one-half the undefined costs of local assessment validation, the following costs are unaddressed by the regulations:
 - a. Curriculum redesign costs.
 - b. Remedial costs – summer school staffing, bussing, professional development, Bridge Project coaching (staff) and costs of test administration paid to IUs.
 - c. Testing administration. Schools will need to dedicate personnel to the administration of 10 Keystone Exams or local assessments. This requires careful planning, facilities considerations, proctoring, collection, and return of testing materials.
 - d. Retesting administration.
 - e. Communications. Schools will need to develop a communications plan for students and parents to explain the complicated new system.
 - f. Local assessment development – costs of development of local assessments and the validation costs of those assessments renders the local assessment option to be not-an-option with the Keystone Exams being the only choice for districts with tight budgets. In effect, Pennsylvania will have a two-class standard for graduation, further harming economically disadvantaged students.
 - g. Local assessment scoring.
 - h. Monitoring student proficiency for graduation.

i. Race to the Top Funding is not an option unless the test scores are tied to teacher evaluations. Pennsylvania does not allow for assessing teacher performance based on student test scores.

3. Need for regulation. The IRRC has noted that the Board has failed to demonstrate a need for the regulation. The final form regulations still do not demonstrate this need. The Department of Education gathered information about local assessments for the first time in September 2008. That study itself was not valid. It was to be a two-part study, yet there has been no Part 2. The Study did not reveal that only 18 school districts have valid local assessments. The Study said that based on the information that they received, they did not have sufficient information to determine the validity of local assessments for the remaining districts. Many districts did not respond to the request because the information was requested during a time when many teachers had not yet returned to school to gather that information and when districts were in process of back-to-school duties.

The Board has failed to demonstrate why the department cannot use this information that was gathered to provide technical assistance for Districts to improve local assessments without enacting the regulations.

4. Reasonableness of implementation. From the IRRC's initial comments:

"Tracking the progress of each student in each of the subject matters, scheduling students to take a test or retake a test (or a module of a particular test) and providing remediation are all significant tasks that will require a large amount of a school district's resources and will dictate summer school remediation for the summer and fall test retakes. A detailed explanation of how a school district is expected to implement this regulation and why the Board believes this approach is reasonable should be included in the Preamble to the final-form regulation." The final form regulations do not contain such an explanation.

5. Statutory authority. During the initial public comment period, it was called into question by the General Assembly and members of the public whether the State Board has the statutory authority to determine specific graduation requirements. The IRRC has called upon the Board to address this concern, and the Board has failed to do so.

6. Legislative Intent. HB Resolution 456, a Joint Concurrent Bipartisan Resolution Co-sponsored by Representatives Clymer and Youngblood, has co-sponsor signatures of 80% of the House Assembly. SB 281 legislation which would require that changes in graduation requirements have the approval of the legislature, passed the Senate by a vote of 48-1. This regulation does not reflect the intent of the legislature.

Based upon the failure of the State Board address the original concerns by the IRRC, I ask that you vote to disapprove the final form regulations.

Yours truly,
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