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# VALUE

## Vision and Leadership Uniting Education

October 9, 2009

Mr. Arthur Coccodrilli  
Chairman  
Independent Regulatory Review Commission  
333 Market Street, 14th Floor  
Harrisburg, PA 17101

**RE: Regulation 6-312, IRRC # 2696: Academic Standards and Assessments**

Dear Mr. Coccodrilli:

I write today on behalf of the VALUE Coalition, whose member representatives of well-respected advocacy organizations embody an impressive collective effort: The Arc of Pennsylvania; the Disability Rights Network; the Education Law Center; the Mental Health Association in Pennsylvania; the Parent Learning Support Network; Parents Exchange; Pennsylvania's Education for All Coalition; Vision for Equality; the Western PA Coalition of Education Advocates; as well as countless individual parents and advocates.

Via letter of June 8, 2008, the VALUE Coalition forwarded to your attention our objections to the Department's and the State Board of Education's proposal to impose a scheme of high-stakes testing, then known as the GCAs. Although the name of the high-stakes testing plan has changed, it does nothing to address the concerns we have presented. Therefore we continue to be vehemently opposed to the entire proposal, and in particular to the provisions that relate to students with disabilities. The new proposal now allows local, validated assessments in lieu of district participation in the Keystone Exams. However, again ignored were the sometimes complex needs of students with disabilities, whose right to participation in any school and educator accountability mechanism can seldom be enforced with easy solutions. Yet the only option that this proposal offers is for IEP teams to simply exclude these children from testing. As we wrote in our previous letter, "if the testing scheme is in place and students with disabilities are not included at all, school staff may perceive themselves as less accountable for these students' performance, and the students will not have access to the remedial support offered to others."

### Contact VALUE:

C/O Sallie Lynagh, Director  
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INDEPENDENT REGULATORY REVIEW COMMISSION  
HARRISBURG, PA 17101

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Further, the proposed regulation now states that, for the Keystone Exams, the State Board will define and develop performance level descriptors and cut scores for "ANY ALTERNATIVE ASSESSMENTS DEVELOPED TO ASSESS STUDENTS WITH DISABILITIES AS PERMITTED BY THE NO CHILD LEFT BEHIND ACT OF 2001 (PUB. L. NO. 107-110, 115 STAT. 1425)." Though the State Board, in its response to comments, indicates its intent to develop these alternative assessments for students with disabilities, there is no such provision in the proposed regulation that reflects this commitment. Even within the response, it is made clear that alternative assessments will only be developed in literature, algebra I, and biology –leaving these students without necessary modifications to testing in seven subject areas and to either of two tragic results: fail or be excluded altogether.

Only one thing seems very clear: Despite our repeated expressions of concern, there has been scant attention throughout this process to the needs of students with disabilities. To this, there is just one noted exception –the IRRC's serious consideration of our objections as reflected in your comments of July 16, 2008:

**This subsection states that the Department will provide "guidance" to school entities as to accommodations for students with disabilities and English language learners, "when appropriate." This is non-regulatory language that does not provide the regulated community with a clear understanding of their obligations or the potential costs associated with administering this provision. The final-form regulation should provide clear and binding standards for how the school district will accommodate the needs of special education and English as Second Language (ESL) students with respect to administration of the GCAs and any resulting remediation. In addition, several commentators have suggested that exemptions and lesser standards of compliance are needed for some students, in particular special education and ESL students, when high-stakes consequences are attached to individual performance on mandatory assessments. We ask the Board to consider this suggestion, and if the Board decides not to adopt it, to provide a detailed explanation of how students with special needs will be accommodated.**

The Board's response to this, in short, is: "The Board believes... that additional regulatory language is unnecessary." You will note that in this final form regulation, your concerns –like ours --have been ignored.

We urge the IRRC to reject the Board's proposal given its continued failure to consider or meet the needs of students with disabilities.

Sincerely,



Sallie Lynagh  
On behalf of the VALUE Coalition