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Institute on Disabilities

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Rec'd
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9.16.

October 19, 2009

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

Re: Academic Standards and Assessments (IRCC #2696): 22 Pa. Code Chapter 4

Dear Chairman Coccodrilli,

On behalf of the Institute on Disabilities at Temple University, Pennsylvania's University Center for Excellence in Developmental Disabilities, I thank you for this opportunity to comment on the proposed Keystone Exams regulations. In reviewing the proposed regulations, the Institute on Disabilities has several serious concerns regarding the impact these new regulations would have on students with disabilities.

Given Pennsylvania's historical struggles to provide education to students with disabilities in the Least Restrictive Environment (LRE), proposed new regulations addressing educational standards could offer significant opportunities to improve Pennsylvania's provision of free and appropriate public education in the LRE and advance our educational system for all students, utilizing innovative and evidence-based practices. The regulations as proposed do not adequately address the needs of students with disabilities and will ultimately be harmful to students with disabilities, perhaps creating additional barriers to LRE.

Exemption from Testing (Section 4.24 (e)) - It is not clear whether, and under what circumstances, students with disabilities are included in the proposed plan or simply exempted. The proposed regulations indicate that students with Individual Education Plans (IEPs) have a right to "opt out" of the exams based on team determination. This is problematic in several ways:

- (1) There is no guidance for team determination in the proposed regulations. Regulations must set standards for any exemption process with clearly-defined criteria for exemption and outline the responsibilities for the consideration and provision of accommodations with regard to the exams and any remedial activities. These standards for exemption should aim to favor inclusion in the Keystone testing assessments rather than exemption of students with disabilities. The proposed regulations favor exemption. Exemption from testing may result in lack of attention to program improvement or progress monitoring of individual student achievement for students with disabilities.
- (2) The regulations are unclear about whether alternative Keystone tests would be available for students with IEPs for all 10 exams. If the default is that students with IEPs take the Keystone Exams, provisions for alternate exams and accommodations should be explicit in the regulations and closely matched to expected learning outcomes based on modified/alternative curriculum.

Inclusion in the Classroom – For students who are educated in non-segregated classrooms, we have concerns about the impact on efforts to educate both the exempted student and the non-exempted student. First, in the case of the exempted student, teachers may not place as much emphasis on making sure those who were exempted from the Keystone exams understood the material, and were given opportunities to appropriately demonstrate mastery. Additionally, if the focus of the curricula in the classroom is on ensuring that the non-exempted students perform well on the exams, it may encourage districts to educate exempted students in segregated settings furthering the Commonwealth's struggles with LRE.

For the non-exempted students, Keystone exams may, in some instances, replace entirely a final exam in a course, but will be federally mandated to be at least 1/3 of the final exam in the course. Under the proposed Keystone exam system, any student scoring below "basic" receives 0%. When this 0% is averaged into his final course grade, and counted for 1/3 of the grade it will dramatically affect the student's overall grade for the course. This schema will compound problems for students struggling with maintaining sufficient GPAs and may be reflected in increased drop-out rates. Students with disabilities are already disproportionately reflected in drop-out rates.

Provision of Accommodations - The regulations lack specificity with respect to the ability of students with disabilities to use, their IEP Teams' responsibility to consider, and the district's obligation to provide the full range of accommodations that may enhance the student's performance on the exams. The regulations need to specifically cite the expectations and allocation of responsibility for the provision of accommodations for testing.

The Institute on Disabilities urges that these regulations are not enacted as written. We recommend that the Department of Education investigate and publicize the findings relative to how these tests have impacted students with disabilities in other states who use such exam requirements. Pennsylvania needs to develop educational programming that will support students with disabilities, including appropriate classroom and individual student support, curriculum modification, teacher preparation and teacher supports. Any new assessment system should be designed to provide information in order to inform instructional and programmatic decision-making, monitor individual student progress, and increase the performance of all students. Our evaluation of the proposed regulations is that they would adversely impact students with disabilities.

Sincerely,

David Mitchell
Executive Director, Institute on Disabilities
Associate Professor, College of Education

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From: Kristin Ahrens [kahrens@temple.edu]
Sent: Monday, October 19, 2009 4:46 PM
To: IRRC
Subject: Academic Standards and Assessments (IRCC #2696): 22 Pa. Code Chapter 4
Attachments: IOD_CommentsKeystoneExams.doc

Dear Chairman Coccodrilli,
Comments on proposed regulations for Academic Standards and Assessments (IRCC #2696): 22 Pa. Code Chapter 4 are attached. Thank you for the opportunity to comment.

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