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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

EDUCATION, REPUBLICAN CHAIRMAN
CAPITOL PRESERVATION, CHAIRMAN
GAMING OVERSIGHT

October 19, 2009

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

Dear Chairman Coccodrilli:

As provided for in the Regulatory Review Act, the Republican Members of the House Education Committee would like to submit the following comments to reflect our concerns with the State Board of Education's submitted final-form regulation #006-312 – Academic Standards and Assessments.

The Regulatory Review Act sets forth the criteria to be used by the Independent Regulatory Review Commissioners in evaluating and approving or disapproving regulatory packages submitted by agencies of the Commonwealth. These criteria (71 P.S. 745.5b) include:

- Whether the agency has the statutory authority to promulgate the regulation.
- Whether the regulation is consistent with the intent of the General Assembly.
- Whether the regulation is in the public interest.

In addition to these criteria, we will set forth concerns with specific provisions of the final-form regulatory package.

I. Statutory Authority

The Public School Code presently provides local school boards with the authority to confer academic degrees. The School Code specifically states:

"The power to confer academic degrees, honorary or otherwise, heretofore granted to and possessed by any board of public education, board of school directors, . . ."

INDEPENDENT REGULATORY
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We believe that by integrating the Keystone Exams into the academic requirements of individual courses through end of course exams and required grading structure, the regulations as proposed overstep the authority of the Commonwealth. The authority to confer degrees is vested in local school boards in the Public School Code as noted above. This infringement upon local control is also cited in letters that have been submitted by other Members of the General Assembly (Rep. Mark Longiotti, August 28, 2009; Rep. Stan Saylor, August 11, 2009; Sen. Jane Orie, September 23, 2009) as well as in various pieces of legislation introduced in both the House of Representatives and the Senate of Pennsylvania.

II. Intent of General Assembly

The public outcry and concern regarding this issue has been consistent. The General Assembly, in effort to slow down the process, included language in the Omnibus School Code in 2008 which placed a moratorium on any further development of the regulations. Despite this action, the state Department of Education (PDE) issued an RFP for development of graduation competency assessments, model curriculum and classroom diagnostic tools in August 2008, one month after the Omnibus was enacted. The contract was awarded during the time the moratorium was in effect. Furthermore, the State Board negotiated in private with the Pennsylvania School Boards Association (PSBA) and announced a compromise in March 2009 despite specific language prohibiting any changes or further action being taken. Based on the uprising of the grassroots local school boards, it is apparent that PSBA was not reflecting the desires of its membership by entering into this agreement. Subsequent to that "compromise," Mr. Joseph Torsella, chairman of the State Board of Education, met with the Pennsylvania State Education Association (PSEA), making further substantive revisions to the proposal.

It has been maintained by the State Board that the latest compromise was developed in conjunction with the General Assembly. This is not an accurate representation. Rather, the State Board Chairman met with three House Republicans; these meetings were more introductive and explanatory of the process rather than substantive; and there was no follow up. The so-called "compromise" was developed by the Administration based on what it felt was beneficial from these individual meetings. While these discussions were taking place, PDE signed a contract with DRC to implement the yet-to-be approved regulations, unbeknownst to the Members of the General Assembly.

Several bills have been introduced in both Chambers of the General Assembly prohibiting the enactment of the new requirements and funding for the components of any new system. The latest, House Resolution 456 (HR 456), requests an opportunity for the issue to be debated by, and voted on, by the Members of the

House in order to meet their responsibilities of representing the wishes of their constituents. HR 456 has over 159 cosponsors: it is a truly bipartisan effort and an indication of the desires of 80% of the Members of the House. The House Democratic leadership has carried out various parliamentary maneuvers to prohibit the issue from being discussed on the House Floor despite the outcry from rank and file members. Furthermore, the House Education Committee held an informational meeting on October 5, 2009 to discuss – not vote - HR 456: throughout this lengthy meeting, members from both parties continued to express their strong opposition to the regulatory package.

If the proposed package is a compromise and reflects what is best for our students, one would think that the level of political pressure that has been evident throughout this process would have been unnecessary.

III. Budget

The enacted budget for fiscal year 2009-10 included \$38 million in the PA Assessment line item, which is \$16 million less than requested by the Governor in his February 2009 budget request. It is our understanding that this does not include funding for the Keystone Exams. The PSSA contract (i.e., the current testing program) was signed in September 2008 and reflects costs for the fiscal year totaling \$31.7 million.

In the past, funds for the Keystone Exams initiative have also been included in the Teacher Professional Development line item. It too was reduced from the Governor's budget request, from \$39 million to \$25 million. This line item funds the Act 48 mandates for PDE as well as other Administration initiatives such as Distinguished Educators, PA Inspired Leadership, Coaching as part of Project 720, and funds to cover National Board for Professional Teaching Standards (NBPTS) costs for participating educators. Since these line item appropriations are not directed by enabling legislation, it is possible for the Administration to access these funds for the Keystone Initiative.

IV. Local Control

The State Board of Education and PDE have stated that they believe they have the authority to determine high school graduation requirements by virtue of the language in the Public School Code which states that the State Board of Education is to "adopt broad policies and principles...."

The Public School Code, however, also states that it is the local school boards of directors that possess the authority to issue a certificate to those students meeting

the prescribed courses of study, and identifies the requirements of graduation to include: 4 years of English; 3 years of mathematics; 3 years of social studies and 2 years of arts and humanities. Furthermore, the law sets forth the areas of local school board responsibility for which a majority vote must be taken and recorded. These responsibilities include: adopting textbooks; adopting courses of study; and entering into contracts of any type exceeding \$100, including classroom and instructional supplies.

V. Voluntary Nature

Despite the statement that the exams will be voluntary, PDE will seek to have the 10 Keystone Exams replace the 11th grade PSSAs and be incorporated within our federally mandated single accountability system. Mr. Torsella stated at the October 5, 2009 informational meeting that disapproval by USDOE is "highly unlikely." Consequently, the approval will necessitate that ALL school districts give at least 3 of the Keystone Exams and thus, the exams will no longer be voluntary.

VI. Curriculum

The final-form regulatory package as submitted by the State Board of Education references voluntary model curriculum and diagnostics as well as competency assessments in 10 subject areas. It is recognized that these support services are being provided by PDE, but after reviewing the \$201 million contract which implements these yet-to-be approved regulations, it appears that the curriculum is being developed while the test items are also being developed.

The concern continues to be as follows: What is the driving force – the tests or the curriculum? Furthermore, awareness of the time it will take to not only integrate the curriculum into the classroom, but also to purchase the necessary instructional material (budget and timing) and prepare for the new curriculum across the school districts' grade levels has not been recognized by the State Board and those advocating for the new regulations.

Another major aspect of educational success not factored into this proposal is the assurance that our children receive a basic level of skills earlier in their education. A child will not pass these exams if he/she cannot read. This continues to be critical area of concern within our education system. A new testing system will not fix this shortcoming and may have the unintended consequence of increasing the frustration of our children and diminishing their desire to learn. This may also result in increased dropout rates.

VII. Misrepresentation of Student Academic Records

If school districts select the Keystone Exams to be considered as part of their graduation requirements, the final form regulatory package requires the grade of the Keystone Exams to be counted as 30% of the subject grade. The regulatory package states that a student must receive an advanced, proficient or basic score on the exam in order to receive any points. In other words, a student that scores below basic will receive **NO** points toward his final course grade, which is a total dismissal of the student's efforts. This also discounts the responsibility of the school district and individual teacher regarding the grading system, and has the potential to negatively impact a student's class standing and potential future opportunities, whether it be college acceptance, scholarships or job opportunities.

The inclusion of the grade requirement was an addition made between the private March PSBA agreement and the subsequent private agreement involving PSEA. The ramifications of that decision upon students must be carefully considered. For example:

- Will a student's GPA be recalculated each time the exam is taken and what will show on the student's transcript?
- Will students be permitted to retake the modules if they did poorly (even if they scored basic) in order to improve their GPA and class standing (similar to the system administered by the College Board)?
- Mr. Torsella indicated that the best score on the individual models will be used, but will that be a local decision?
- Maryland is often referenced when discussing this package. A component of their graduation requirements permits the scores to be combined and students must meet a certain total of points. The Maryland program allows students to offset lower performance on one test with a higher performance on another. It does not appear that option is permitted for our students, but should it be?

Rep. Longietti, in his August 28 letter as well as during the October 5 informational hearing, also calls into question the legality of this new provision, citing several court cases. We believe the manipulation of a student's grades and potential impact needs to be given further consideration before final adoption.

VIII. Federal Standard/Assessment Movement

The Obama Administration is moving towards a federal academic standards and assessment system. Pennsylvania is one of the 49 states that have signed on as a participant in the Core Academic Standards initiative. Governor Rendell announced the State's participation in July 2009. Furthermore, the Obama Administration has

stated that it intends to replace State assessments with a system of federal assessment. For this reason, it seems unnecessary and costly to implement a new system of testing before the extent of the national movement is known and vetted.

IX. Testing

One of the concerns expressed by citizens and stakeholders is the sheer volume of testing conducted in our schools at the present time. In response to this concern, PDE entered into a contract with Penn State University to assess the current testing programs in the Commonwealth's high schools. The stated purpose of the PSU Local Assessment Validity Study was "to describe the materials submitted as local assessments by the districts" and to summarize the school districts' practices used to meet the proficiency requirements.

To this end, the researchers "catalogued" materials ranging from letters to multiple binders or boxes. The study frequently noted the variance, not only between the type of assessments given, but also the practices in place to determine proficiency (rating scales 0-3). The study concluded that Math tests were more often rated as aligned with the standards, while reading was not. Noting that alignment is necessary but insufficient in determining validity, it references the practices and merely stated, based on information provided by district staff, that there was considerable variance.

Interestingly, the number and type of tests given (60 standardized and up to 1,000 overall different types of assessments) are used by our school districts. It is noted that one of the most frequently cited assessments was 4Sight, which must be used by school districts in order to qualify for Education Assistance Program grant funds (tutoring).

As proposed, the Keystone Exams will replace the final exams in their respective courses, but may also replace selected 11th Grade PSSAs. However, a concern of the Republican caucus has been the sheer amount and duplication of testing in our schools. As noted by the PSU study, just in high schools, there were over 1,000 different assessments given in our schools. It is our belief that replacing one with another does not address the overall efficiency of our testing programs, especially in light of the fact that the Commonwealth itself requires some of these tests to receive certain State funds.

X. Costs

There have been no cost estimates provided on the **TOTAL** cost to implement this initiative – only the State costs related to the development of the tests, model curriculum and diagnostics. Local school districts will be required to administer the

tests at least 3 times a year. The costs for the new textbooks and curriculum materials, professional development, remediation and the new alternative pathways option that will be necessary to fully implement the proposal have been ignored. A 2004 report completed by a federal policy organization stated that 96% of the costs related to the implementation of such systems are borne by local school districts.

The Administration has stated that students will only need to retake the modules on which they scored below basic. Consequently, each student will need to have individualized tutoring and testing plans developed. The State Board has maintained that roughly 30% of students entering post-secondary education are not proficient and require remediation. Pennsylvania's 2008-09 secondary enrollment (grades 9-12) totals 586,662, and 30% of that enrollment would be 175,998. How many of those students will need to retake the exams and have individualized plans to remediate and prepare them for the retakes? One of the troubling aspects is the number of assumptions and variables in play specific to those calculations -- how do you figure out the number of kids that need remediation, what is the cost per module, how many modules should we assume each child would need to retake, is the remediation part of the class or offered outside regular class time, etc.?

Many of the issues raised in public comments have addressed the lack of detail available for the actual administration of the Keystone Initiative, such as monitoring student progress. Due to the complexities in tracking and monitoring the progress of all the students (i.e., which ones need tutoring, which modules require remediation for which student, etc.), the State Board indicated that PDE plans to develop a Keystone Exams data system for tests, modules and progress on project-based assessments. The response noted that, due to the Act 61 moratorium, the work needed to answer these detailed operational issues "is on hold" pending approval of the regulatory package.

Lastly, the Alternative Pathways option was added during the last revision of the proposal, and the details of implementing that option are unknown at this time. It is our understanding that the Alternative Pathways option was modeled after the Maryland program; however, it is also our understanding that the Maryland end-of-course exams are given in 9th and 10th grade. Administering the end-of-course exams in the first two years of high school provides adequate time for students in grades 11 and 12 to complete the project-based assessments.

XI. Current Accountability System

Our current system of accountability using the PSSA has been approved by USDOE since the enactment of the No Child Left Behind Act (NCLB). We have seen increased progress on student performance. The Governor has held several press

conferences to tout student progress in the past year alone. The State Report 2007-2008 on the PDE website shows that 74% of 11th grade students were basic, proficient, or advanced in Math; 81% of 11th grade students were basic, proficient or advanced in Reading and 82% of 11th grade students were basic, proficient or advanced in Science. In the recent PSSAs, 468 school districts met their Average Yearly Progress (AYP).

Furthermore, in January 2009, Pennsylvania received approval of its growth model in meeting the requirements of NCLB. According to the press release by PDE: "The U.S. Department of Education's approval of the Pennsylvania Value-Added Assessment System gives us a more precise, objective tool for measuring student progress, the secretary said"... "The information we glean from Pennsylvania Value-Added Assessment System (PVAAS) helps our teachers make better decisions about student instruction, which creates a more enriching learning experience for students."..."Our growth model allows us to look beyond the collective numbers and see each child, and that enables us to determine whether each individual student is on a solid path to reaching proficiency by 2014, as No Child Left Behind requires."

PVAAS is a statistical analysis of PSSA assessment data that gives districts and schools more detailed information on students' academic growth to help guide local decision-making on student instruction. In the fall of 2006, all 501 districts received PVAAS reporting and, just last fall, PVAAS reports were provided for reading, math, science and writing in grade 11, as well as for science in grades 4 and 8 and for writing in grades 5 and 8. Pennsylvania is one of only three states providing this information statewide to all school districts.

Interestingly, the Administration stated: "Our growth model builds fairly and logically on No Child Left Behind by allowing us to recognize the progress of schools that began with very low proficiency rates and have seen strong growth in those rates, even if they have not yet hit annual proficiency targets," ..."Without this growth model, the academic gains of many of these schools would have been discounted or overlooked entirely, which is patently unfair to these students and their teachers."

So what will the Keystone Exams be able to provide that is not presently known through our current testing and accountability system?

The Honorable Arthur Coccodrilli, Chairman

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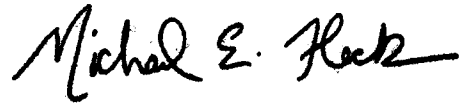
October 19, 2009

We thank you in advance for consideration of our comments.

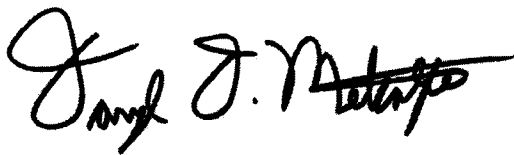
Sincerely,



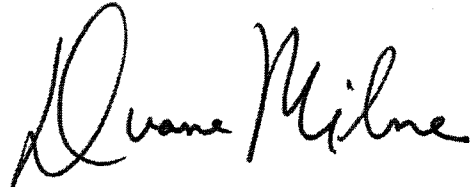
Paul I. Clymer, Republican Chairman
House Education Committee



Mike Fleck, Committee Member
House Education Committee



Daryl D. Metcalfe, Committee Member
House Education Committee



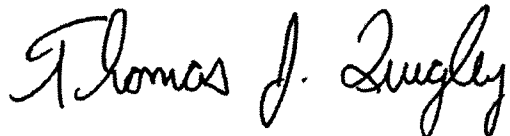
Duane Milne, Committee Member
House Education Committee



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House Education Committee



Kathy L. Rapp, Committee Member
House Education Committee

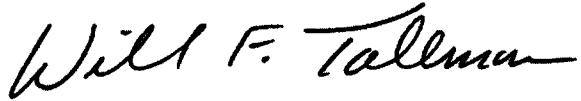


Mike Reese, Committee Member
House Education Committee



Todd Rock, Committee Member
House Education Committee

The Honorable Arthur Coccodrilli, Chairman
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A handwritten signature in black ink that reads "Will F. Tallman". The signature is written in a cursive, flowing style.

Will Tallman, Committee Member
House Education Committee

cc: The Honorable James Roebuck, Majority Chairman
House Education Committee
The Honorable Jeffrey Piccola, Majority Chairman
Senate Education Committee
The Honorable Andrew Dinniman, Minority Chairman
Senate Education Committee
The Honorable Jane Orie, Senate Majority Whip
All Republican House Members