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**VALUE**

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**Vision and Leadership Uniting Education**

June 9, 2008

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

INDEPENDENT REGULATORY  
REVIEW COMMISSION

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RE: Chapter 4 – Academic Standards and Assessments 6-312; IRRC Number 2696

Dear Mr. Coccodrilli:

I am writing on behalf of VALUE, a coalition composed of parents and disability groups that works to ensure quality, inclusive educational opportunities for students with disabilities. VALUE and its members have most recently participated extensively in the deliberations around Chapter 14 (the state special education regulations).

The Commission is now reviewing amendments to 22 PA Code Chapter 4 which require students to pass a series of "graduation competency assessments" devised by the State or by their local educational agencies to graduate from high school. VALUE has strong reservations about the entire proposal. While we recognize that many students graduate from Pennsylvania's schools ill-equipped for success in higher education and employment, we do not think that requiring them to pass a series of standardized tests will result in better educational outcomes. Rather, we fear it will increase the dropout rate among the Commonwealth's neediest students.

Before we can withhold diplomas from students who do not pass these tests, we must ensure that they have a fair chance to succeed. The recent Costing-Out Study commissioned by the General Assembly and released by the State Board of Education on November 14, 2007 demonstrates that a more equitable and adequate education for all students requires a substantial increase in State funding, particularly in the school districts with the most underperforming students. It also clearly states that many school districts do not have the funding that it would take to enable students to pass even the math and reading tests proposed here. Until the funding system is fixed, it is patently

**Contact VALUE:**

C/O Sallie Lynagh, Director  
Disability Rights Network's Children's Project  
1414 North Cameron Street, Suite C  
Harrisburg, PA 17103  
Phone 1-800-390-1279 Fax 717-236-0192  
Email slynagh@drnpa.org

unfair to hold students – the victims of this inequitable system – to even higher standards.

Children with disabilities are especially at risk under this proposal, and we write to urge the IRRC to withhold approval, at least until specific changes are made to clarify how the new rules will apply to these students. Since the 1970's, Pennsylvania law has stated that students with disabilities qualify for regular high school diplomas even if they cannot meet the same standards as other students. It is essential that this right be protected. At the same time, 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. If the tests are given, students with disabilities should be included with necessary accommodations or modifications. Clearly, for students eligible for special education, it is the child's IEP Team (which includes the parents) that should define the supports and adaptations dictated by the child's unique needs.

We believe that there is no substantive disagreement between the State Board and the VALUE Coalition on the key components of how students with disabilities should be included and protected in this expanded, high stakes assessment scheme. Unfortunately, the version of Chapter 4 passed by the State Board is not sufficiently clear; we believe that our proposal, included with this letter, provides the necessary specificity and clarity.

This is accomplished by new 22 PA Code §4.24(e)(1), which states that students with disabilities should take either the regular or the alternate assessment for the purposes of remediation and accountability. The proposal also states that students with disabilities must be included in any remediation scheme, with necessary supports. 22 PA Code §4.24(c).

But whether the student should receive a regular high school diploma should depend on whether the IEP team concludes that the student has satisfactorily completed his or her special education program (the current standard) – not on whether the student has successfully completed the assessments as provided in 22 PA Code §4.24 (see 22 PA Code §4.24(e)(2)). Finally the VALUE proposal defines the IEP teams' (or, for students who have disabilities who require accommodations rather than special education, the Service Agreement Teams') duty to ensure that students receive the supports they need in the assessment process. 22 PA Code §4.24(e)(3).

Finally, even with accommodations or modifications, some students with disabilities will not be able to take the regular GCAs. For students who cannot take the PSSAs, the Department developed the PASA, which is based on alternate achievement standards that are themselves drawn from the academic standards that apply to all students. The Department must develop alternate assessments in the new areas covered by the GCAs. This will ensure a measure of accountability for all students, even those with serious disabilities, and will also ensure that they can benefit from the new remediation options. This is clearly the State Board's intent – the VALUE proposal makes that intent more explicit. 22 PA Code §4.51(e)(5) and (9).

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We recognize that the State Board's proposal requires the Department to develop "guidelines" for the participation of children with disabilities (22 PA Code §4.51((j)). We believe that this job should not be left for the Department to do, without the guidance of more detailed regulations, through an internal process that does not engage the public and that produces a document of lesser stature than the regulations themselves. If this proposal is to be adopted, how students with disabilities are to be included should be set out in the regulations with specificity, and we offer the enclosed proposal to that end.

Thank you for the opportunity to comment on these important regulations. We would be happy to discuss our proposal and our concerns with you or members of the IRRC staff.

Very truly yours,

Sallie Lynagh  
on behalf of the  
VALUE Coalition

Enclosure

Cc: IRRC members  
The Honorable James R. Roebuck  
The Honorable Jess M. Stairs  
The Honorable James J. Rhoades  
The Honorable Raphael J. Musto  
The Honorable Dennis M. O'Brien  
The Honorable Barbara McIlvaine-Smith  
The Honorable Kathy L. Rapp  
James Buckheit

ANNEX A  
TITLE 22. EDUCATION  
PART I. STATE BOARD OF EDUCATION  
CHAPTER 4  
ACADEMIC STANDARDS AND ASSESSMENT

§ 4.3. Definitions.

Assessment modifications. Changes made to testing standards which go beyond allowable accommodations and would otherwise invalidate the assessment results, and which can be used only by students with disabilities as recommended by the IEP Teams.

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GCAs-- Graduation competency assessments.

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PSSA-- Pennsylvania System of School Assessment.

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§ 4.4. General policies.

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(e) The department shall provide support to school districts and AVTSs in developing educational programs that enable students to attain academic standards under § 4.12. Department support shall include:

(1) Establishment of a voluntary model curriculum aligned with State academic standards in each of the content areas assessed by the GCAs under § 4.51(c).

(2) Assistance in the development of effective student tutoring, remediation and extended instructional time programs.

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(3) Opportunities for continuing professional education designed to improve instruction in each of content areas assessed by the GCAs under § 4.51(e).

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**§ 4.24. High school graduation requirements.**

(a) Each school district, including charter schools, shall specify requirements for graduation in the strategic plan under § 4.13 (relating to strategic plans). Requirements through the 2012-13 school year shall include course completion and grades, completion of a culminating project, **[and]** results of local assessments aligned with the academic standards~~]. Beginning in the 2002-2003 school year, students shall demonstrate] and a demonstration of~~ proficiency in reading, writing and mathematics on either the State assessments administered in grade 11 or 12 or local assessment aligned with academic standards and State assessments under § 4.52 (relating to local assessment system) at the proficient level or better to graduate. The purpose of the culminating project is to assure that students are able to apply, analyze, synthesize and evaluate information and communicate significant knowledge and understanding.

(b) **[Beginning in the 2002-2003 school year, students who attain a score at the proficient level on any State assessed discipline administered in grade 10, 11 or 12 shall be granted a Pennsylvania Certificate of Proficiency for that discipline. Students with disabilities who meet the required proficiency level on State assessments with appropriate accommodations shall be granted a Pennsylvania Certificate of Proficiency.] Beginning in the 2013-14 school year, each school district and AVTS, including charter schools, shall specify requirements for high school graduation in the strategic plan under § 4.13 that shall, at a minimum, include:**

- (1) Course completion and grades.**
- (2) Completion of a culminating project in one or more areas of concentrated study under the guidance and direction of the high school faculty. The purpose of the project, which may include research, writing or some other appropriate form of demonstration, is to assure that the student**

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is able to apply, analyze, synthesize and evaluate information and communicate significant knowledge and understanding. Projects may be undertaken by individual students or groups of students.

(3) Demonstration of proficiency, as assessed and determined by the school district or AVTS (including charter schools), in each of the State academic standards not assessed by a State assessment under § 4.51.

(4) Demonstration of proficiency or above in each of the following State academic standards: reading, writing and mathematics (Appendix A); science and technology and environment and ecology (Appendix B) as assessed through any one or a combination of the following:

(i) The PSSA administered in 11th grade or 12th grade retest.

(ii) The English composition and literature GCAs, any two mathematics GCAs and either science GCA.

(iii) Locally administered, validated criterion referenced assessments comparable to the GCAs. The local assessments shall be independently and objectively validated by a vendor selected by the school entity from a list of approved vendors published every five years by the Secretary after obtaining the approval of the Board. The Secretary shall select approved vendors through a competitive request-for-qualifications process that includes consideration of:

(A) Organizational and staff experience in the validation of state and local assessments.

(B) Appropriate use of generally accepted psychometric statistical methods, practices and analysis.

(C) References.

(D) Cost.

The Secretary, with the concurrence of the Board, may issue an additional request for qualifications prior to the end of the five-year period should the demand for validation services exceed the capacity of approved vendors. The school entity shall contract and pay the cost of validating each local assessment. Each local assessment shall be

validated by an approved vendor every five years. Material changes to the assessment for reasons other than replacing individual test items of comparable rigor or revision of the assessed State academic standards shall require a new validation. Approved vendors shall include the following criteria when determining whether the local assessment is comparable to the GCAs under § 4.51(e):

- (A) Assessments are internally consistent and replicable.
- (B) Assessments adequately measure and are aligned with the academic content specified in the State academic standards assessed by the GCAs.
- (C) Level of difficulty of assessment items is greater than or equal to those assessed on the GCAs.
- (D) Proficiency level cut scores are greater than or equal to that of the GCAs.
- (E) Results of local assessments correlate positively and significantly with related national and state criterion referenced assessments.
- (F) Test administration, security and scoring regimes ensure that the integrity and validity of the local assessment is maintained.
- (G) Policy for annually updating assessment items ensures compliance with subparagraphs (A) through (F).

(iv) Advanced Placement or International Baccalaureate exams that include academic content comparable to the appropriate GCA at a score established by the Secretary to be comparable to the proficient level on the appropriate GCA.

- (5) Demonstration of proficiency or above in the State academic standards in civics and government or history in any one of the social studies GCAs as provided in § 4.51(d)(3), a validated local assessment under (4)(iii) or comparable Advanced Placement or International Baccalaureate exam.

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(c) [Beginning in the 2002-2003 school year, students who attain a score at the advanced level of proficiency on any State assessed discipline administered in grade 10, 11 or 12 shall be granted a Pennsylvania Certificate of Distinction for that discipline. Students with disabilities who meet the required proficiency level on State assessments with appropriate accommodations shall be granted a Pennsylvania Certificate of Distinction.] A student who does not score proficient or above on a PSSA or the PASA administered in 11th grade or GCA or alternate assessment administered in any grade shall be provided supplemental instructional support by the student's school entity. The supplemental instructional support shall assist the student to attain proficiency in the State academic standards. Students with disabilities, including a student who qualifies for a regular high school diploma pursuant to Section 4.24(e), shall be eligible for supplemental instructional support with accommodations or supports as determined by their IEP or Service Agreement Teams.

(d) Each school district, including charter schools, shall describe in its strategic plan under § 4.13 how its planned instruction is designed to prepare students, including students with disabilities, to meet the requirements of subsection (a).

(e) Children with disabilities

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(1) Students who are eligible for special education will take assessments as provided in this regulation or alternate assessments for the purpose of ensuring school accountability and remediation.

(2) A student who fails to meet the assessment requirements in §4.24, but who satisfactorily complete a special education program developed by an Individualized Education Program team under the Individuals with Disabilities Education Act and this part shall be granted and issued a regular high school diploma by the school district of residence. This subsection applies if the special education program of a child with a disability does not otherwise meet all requirements of this chapter. **[Children with disabilities who meet the required proficiency level on State assessments shall be granted the appropriate Certificate of Proficiency or Distinction.]**

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(3) IEP Teams are authorized to determine appropriate testing accommodations or modifications, and whether students should take alternate assessments. Service Agreement Teams are authorized to determine whether students who are "protected handicapped students" under 22 PA Code Chapter 15 should receive accommodations in the testing process.

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(f) [The Department will develop Pennsylvania Certificates of Proficiency and Distinction for each of the State assessed disciplines. The Department will distribute the certificates to each school district in sufficient quantity for the school district to issue to its students who have earned the Certificates. School districts shall enter student names on the appropriate certificate as described in subsections (b) and (c) and present the certificates to the student.] For purposes of this section students shall be deemed proficient in the State assessed standards whenever they demonstrate proficiency through any of the assessment options enumerated in subsection (a), regardless of the student's grade level or age.

(g) [The Department will develop, or cause to be developed, Certificates of Proficiency so as to acknowledge and recognize those students who attain a level of at least proficient in all State assessed disciplines. The certificates must be distinctive and differentiated from the certificates described in subsection (f). The certificates shall be awarded to students as appropriate in lieu of those prescribed in subsection (b).

(h) The Department will develop, or cause to be developed, Certificates of Distinction so as to acknowledge and recognize those students who attain a score at the advanced level of proficiency in all State assessed disciplines. The certificates must be distinctive and differentiated from the certificates described in subsection (f). The certificates shall be awarded to students as appropriate in lieu of those prescribed in subsection (c).

(i) Beginning in the 2003-04 school year, PSSA scores in each assessed discipline, and beginning in the 2013-14 school year, GCA or validated local assessment scores shall

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be included on student transcripts and may be released only with the permission of the student and parent or guardian, or the student only if the student is 18 years of age or older.

[(j)] **(h)** This section does not allow for the release of individual student PSSA or GCA scores to the Department or other Commonwealth entities in accordance with § 4.51(c) (relating to State assessment system).

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**§ 4.51. State assessment system.**

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(b) All [State assessment] PSSA instruments administered in reading, writing and mathematics in grades 5, 8, and 11 will be standards-based and criterion referenced and include essay or open-ended response items in addition to other item formats. The proportion of type of items will vary by grade level. Neither State assessments nor academic standards under § 4.12 may require students to hold or express particular attitudes, values or beliefs. The Department will make samples of assessment questions, instrument formats, and scoring guides available to the public after each administration of State assessments. The criteria for judging performance on State assessments are as follows:

(1) Performance on [State] PSSA reading assessments shall be demonstrated by students' responses to comprehension questions about age-appropriate reading passages and by their written responses to in-depth comprehension questions about the passages.

(2) Performance on [State] PSSA mathematics assessments shall be demonstrated by students' responses to questions about grade-appropriate content and by the quality of their responses to questions that require a written solution to a problem.

(3) Performance on [State] PSSA writing assessments shall be demonstrated by the quality of students' written compositions on a variety of topics and modes of writing.

(4) Performance on [State] PSSA science assessments shall be demonstrated by students' responses to grade appropriate content and by the quality of their responses to questions that demonstrate knowledge of each category of the standards for science and technology and environment and ecology.

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(d) The Department will develop or cause to be developed [State] PSSA assessments based on academic standards in mathematics, reading, [and] writing and science under § 4.12 and contained in Appendices A and B. In developing assessments, the Department will consult with educators, students, parents and citizens regarding the specific methods of assessment. To ensure that information regarding student performance is available to parents and teachers, State assessments developed under this section shall include student names. Individual test results shall be used in planning instruction only by parents, teachers, administrators and guidance counselors with a need to know based upon local board policy on testing and in reporting academic progress. The Department or other Commonwealth entities are prohibited from collecting individual student test scores, and may only collect aggregate test scores by school and district.

(1) The PSSA shall be administered annually and include assessments of the State academic standards in mathematics and reading at grades 3, 4, 5, 6, 7, 8 and 11, in writing at grades 5, 8 and 11, and in science at grades 4, 8 and 11.

(2) Students not achieving at the proficient level in the administration of State assessments in grade 11 shall be provided one additional opportunity in grade 12 to demonstrate a proficient level on [State] the PSSA assessments.

**(e) The Department will develop or cause to be developed GCAs as follows:**

**(1) three assessments aligned with the mathematics standards, contained in Appendix A, that assess the academic content traditionally included in Algebra I, Algebra II and Geometry courses.**

**(2) two assessments aligned with select reading, writing, speaking and listening standards, contained in Appendix A, that assess academic content traditionally included in high school literature and composition courses.**

**(3) three assessments aligned with select History and Civics and Government standards, contained in Appendix C, that assess content traditionally included in high school level American history, World history and civics and government courses.**

**(4) two assessments aligned with select standards for science and technology and environment and ecology, contained in Appendix B, that assess academic**

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content traditionally included in high school level biology and chemistry courses.

(5) For students who are eligible for special education, alternate assessments in each of these areas.

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(6) GCAs shall be offered at least three times each year, once each in the Fall, Spring and Summer. GCAs shall be reviewed and scored so that the scores for candidates for graduation are provided to schools no later than 10 calendar days prior to graduation.

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(7) Students shall be permitted to retake any GCA, or GCA module, in which the student did not score proficient or above at the next available testing date.

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(8) Each GCA may be designed into modules that reflect distinct, related academic content that is common to the traditional progression of coursework to allow students who do not score proficient or above to retake those portions of the test in which they did not score proficient or above.

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(9) The Department shall provide guidance to school entities as to the appropriate accommodations school entities shall provide to students with disabilities and English language learners, when appropriate.

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(g) The Department will implement provisions for security of the State assessment system, including the following provisions:

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(2) Cheating by students or ~~[employees]~~ employees other than those covered in paragraph (1) shall be subject to disciplinary action by the school district.

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(j) Children with disabilities and children with limited English proficiency shall be included in the State assessment system as required by Federal law, with appropriate accommodations and modifications, when necessary. As appropriate, the Commonwealth will develop guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in the State assessment system as determined by each child's Individualized Education Program team under the Individuals with Disabilities Education Act and this part.

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#### § 4.52. Local assessment system.

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(d)(10) GCAs may be used in place of traditional final exams administered at the middle or high school level.