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The Arc of Pennsylvania is affiliated with The Arc of the United States and 36 local chapters of The Arc across PA.



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August 10, 2009

Jim Buckheit
State Board of Education
333 Market Street, 2nd Floor
Harrisburg, PA 17126-0333

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

RE: 22 PA Code Chapter 4 Regulations for Academic Standards and Assessment (#006-312), Proposed by the State Board of Education.

The Arc of Pennsylvania, affiliated with The Arc of United States, is the largest grassroots, non-profit advocacy organization in Pennsylvania for citizen's with intellectual and developmental disabilities and their families. The Arc of Pennsylvania is the state chapter of The Arc and works with 36 chapters in 52 counties across Pennsylvania. The Arc's mission is to include all children and adults with intellectual and developmental disabilities in every community.

As an advocacy organization, The Arc of Pennsylvania strongly objects to the high stakes Graduation Competency Assessments- now renamed the Keystone Exams- proposed by the State Board of Education. While we recognize that strong academic standards and accurate, measurable outcomes are essential for the success of our high school graduates, we strongly believe that the proposed Keystone Exams- in any form- will not only fail to achieve the desired outcomes, but will actually cause significant harm to our schools and students in a number of areas.

The Independent Regulatory Review Commission is mandated to consider each proposed set of regulations in accordance with the guidelines established by the Independent Regulatory Review Act, (IRRA) 71 P.S. Sect. 745.1. It is the position of The Arc of Pennsylvania that the proposed Chapter 4 regulations fail to meet the standards required by the act in several important areas as they apply to students with disabilities.

A. IRRA Criteria Regarding Statutory Authority for the Regulation

1. Is the proposed regulation consistent with the intent of the General Assembly?

No, the proposed regulation is not consistent with the intent of the general assembly. There is no current state law that authorizes the linkage of standardized assessment performance with the granting of a diploma. Current state law allows local school districts to decide whether or not students are prepared to graduate. The impact on students with disabilities is crucial to consider under this guideline. For over 30 years, Pennsylvania law has stated that students with disabilities qualify for regular high school diploma's based on the goals set forth in their individualized education program.

**Advocacy & resources for citizens with
intellectual & developmental disabilities & their families**

A leading voice
in Harrisburg on
disability issues.



The
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Pennsylvania
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are not successful in qualifying for special education will be our future drop outs, which will increase the financial costs to society; one of the very goals that the proposed regulations hope to address. While the intent of the proposed regulations is to ensure more competent graduates, statistical studies confirm that the drop out rate actually increases in the states that have implemented these types of assessments.

2. Will the proposed regulations have an impact on legal, consulting or accounting services which the public or private sector may incur? P.L. 75, No 19, Sec. 5.2 (b)(1)

Yes. The proposed regulations will have a direct impact on all children with disabilities attempting to secure a free and appropriate public education under the Individual's with Disabilities Education Act. Advocates of inclusion for students with disabilities have grave concerns about the impact of these proposed regulations on efforts to have students with disabilities included as part of the regular educational community. Advocates envision that inclusion will be hampered in several ways. First, students who are in inclusive settings may be marginalized or pushed aside by teachers who view their primary responsibility to be getting "qualified students" (i.e, students who have not opted out of the exams) to pass the exams. We anticipate an increase in litigation over students with Individualized Education Programs (IEP's) being denied the supports and services they need make adequate yearly progress on their educational goals. If teacher's time and efforts are focused on the teaching and remediation to enable students to pass the competency exams, and students in the room with an IEP have opted out of these exams, the teaching staff may perceive themselves as less responsible for these student's performance, and they will not have access to the remediation and support being offered to others. This may lead to more requests for mediation and due process hearing requests as students with disabilities are deprived of their right to a free appropriate public education. The Commission should reject the proposed regulations due to the likelihood that they will create significant and unfunded legal costs for the state and local school districts.

For all of the reasons outlined above, The Arc of Pennsylvania cannot support the proposed Chapter 4 regulations regarding graduation testing. The educational system in Pennsylvania will be irreparably harmed, at significant cost to students with disabilities, if these proposed regulations are allowed to pass as written. We respectfully request that the Commission reject the regulations before it. Thank you for the opportunity to comment on these regulations.

Respectfully,

Pam Klipa
Special Education and Training Coordinator
On Behalf of
The Arc of Pennsylvania

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intellectual & developmental disabilities & their families**