



September 22, 2009

**Thomas J. Gentzel**  
Executive Director

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

Dear Chairman Coccodrilli:

The Pennsylvania School Boards Association would like to take this opportunity to comment on final form regulation #6-312 - Academic Standards and Assessment - submitted by the State Board of Education.

PSBA was strongly opposed to these regulations as originally proposed. The association led an effort that resulted in the approval of resolutions by over 200 school districts in this state in opposition to those proposed regulations. Many of our comments were mirrored in the commission's letter to the State Board of Education, dated July 16, 2008.

### **Changes made in March**

Since that time, PSBA has worked with State Board Chairman Joseph Torsella to fashion a proposal that was more acceptable to association members. In March 2009, the association reached agreement with both the State Board and the Department of Education on a proposal that made several important changes to the plan. The two major changes were: 1) new state assessments, now called Keystone Exams, would more clearly and effectively be optional for school districts, and 2) school districts would be able to continue to use locally developed assessments in lieu of Keystone Exams to determine student readiness to graduate, as long as those assessments were validated.

The clearer language making the Keystone Exams optional has been retained in the final form of the regulations. While the use of a validated local assessment was permitted under the original proposed version of the regulation, the association believed that the validation process it contained would have been so extraordinarily costly and time consuming that it would have served as a strong disincentive to school entities to use local assessments, making the Graduation Competency Assessments contemplated in the proposed version a *de facto* requirement for school districts. The March agreement, in our view, resolved this issue by placing the validation process into the hands of a Local Assessment Validation Committee, on which PSBA would have four representatives, along with representatives of PDE and the State Board. It is our contention that by having individuals from the field on this committee, a validation process that is relatively simple, cost effective and reliable can be achieved. The provision creating the committee has been retained in the final form version of the regulations, with the additional stipulation that up to four additional members can be appointed by the original appointees. Along with the creation of this committee, the March agreement included a provision that that requires the commonwealth to pay for half of the costs of validating locally developed assessments. The proposed version called for school districts to pay the entire cost. This cost-sharing arrangement also has been preserved in the final form regulations.

Several other changes were made in the March agreement. One of the most important, aside from the two major changes mentioned previously, is a clarification that validated locally developed assessments can include the assessment strategies that are listed in current regulations at 22 PA Code § 4.52 (e)(1-9) \*. Allowing local assessments to include one or more of these strategies allows school districts to mitigate concerns that students who do not test well will be disadvantaged by these regulations.

Changes also were made regarding the timing of tests and test results, which allow school districts to petition the department to move the testing and scoring dates so that students would know whether or not they need to do additional work in order to graduate much sooner than 10 days before graduation, as originally had been proposed. The agreement also contained language requiring the department, for the first time, to provide "technical assistance" to school entities who requested it in developing local assessments for graduation purposes.

The authority to use additional testing strategies, the change in test and test result timing and the requirement for technical assistance all are part of the final form regulations.

### **Additional changes and PSBA's response to the final form regulations**

The additional changes to the proposal that were announced July 9 and which were not a part of the association's March agreement necessitated an additional response from PSBA. As the organization directly involved in the development of the March agreement, the association wanted to ensure that the major changes made in that accord were not jeopardized by these new provisions.

At its regularly scheduled meeting on July 12, the association's Board of Directors unanimously approved a resolution (attached) commending the State Board for its efforts to resolve this issue, but due to several specific concerns, concluding that the association could not support the proposal as currently written. At the same time, the resolution called on PSBA staff to have further discussion with stakeholder organizations, policy makers and others to try to obtain changes to the regulation that would produce a stronger consensus on the regulations from groups representing school administrators, school principals, directors of curriculum and administrators of career and technical schools, all of which had, at the time, either voiced their opposition to the most recent changes or submitted comments opposing them to the Legislature and to the State Board.

Staff was able to meet with the affected organizations and arranged a meeting with the chairman of the Senate Education Committee; however, it was clear that no further changes would be made to the proposal before it went before the State Board for a vote. The State Board subsequently approved the proposal 14-2 (one abstention) without further changes at its August 13 meeting.

\* These assessment strategies include written work by students, scientific experiments conducted by students, works of art or musical, theatrical or dance performances by students, other demonstrations, performances, products or projects by students related to specific academic standards, examinations developed by teachers to assess specific academic standards, nationally-available achievement tests, diagnostic assessments, valuation of portfolios of student work related to achievement of academic standards and other measures as appropriate, which may include standardized tests.

### **Major concerns with final regulations**

During its July discussion on the proposal, members of PSBA's Board of Directors cited their concern that organizations representing those who will be responsible for implementing the regulation were not supportive of the plan. The major concerns of those organizations are the provision that would require Keystone Exam results to count for 33% of a student's final course grade and the provision that students scoring "below basic" on the exam would be given a "0" grade and would not receive credit for the score they received. School entities would be required to remediate these students and give them a re-test on the test modules in which they scored "below basic." If a student failed the test a second time, he or she would be eligible to take part in a "bridge" project consisting of intensive study and a demonstration that he or she mastered the subject material. The original failing test score would be added to the score received on the re-test or on the bridge project to reach a final score that would count as 33% of the course grade.

A conference call with the association's Board of Directors on August 24 confirmed that these two concerns were consistent not only with the directors themselves, but also within the districts that they represent. It should be noted that the concerns were present both in areas of the state where districts generally support the concept of the Keystone Exams and where there is strong opposition to them.

The so-called "33% rule" is of concern primarily because it removes the ability of local school boards, school administrators and educators to regulate the calculation of course grades. Because the test counts for such a high percentage of the final grade, a school entity would have difficulty juggling the relative importance of other potential criteria. Thus if a school entity wished to assign greater emphasis on mid-term exams, class participation, a specific class project, scores on quizzes and tests or completion of homework, it could do so only by recalculating its other non-Keystone Exam criteria. This effect could be felt most in science classes, where experiments are used routinely to demonstrate student's grasp of the material being taught. It also could place less emphasis on long-term projects such as term papers, that not only stress knowledge of the subject at hand, but writing and organizational skills, as well as skills in logic and reasoning, all of which are important in the workplace and college and none of which can be assessed to the same extent on a standardized test such as the Keystone Exam.

Moreover, a student who otherwise does well in a course, but scores poorly on the Keystone Exam will have his or her grade point average lowered to reflect the low test score. While this is kind of scoring scheme currently exists in many high schools, the fact that the regulations require the test to count for such a high percentage of the final grade makes the test more "high stakes" than many final course exams that are currently used.

Regarding the assignment of a "0" grade to students who score "below basic" on the Keystone Exam, the issue centers on the effect on the individual student. A student who scores well on the criteria that make up 67% of the final course grade, but fails the Keystone Exam, will end up failing the course because he or she will get a zero for 33% of the final grade.

Even more critical for school entities is the fact that a student failing the Keystone Exam will have to be given additional remediation and re-tested or, if he or she qualifies, a bridge project. Regardless of which steps are ultimately needed, there are serious concerns among school entities about the financial and administrative burdens for recordkeeping, staffing and scheduling that will accompany these additional requirements.

Finally, there is no sound educational basis for using either the 33% figure or for giving a "0" score on a Keystone Exam when there is a score of "below basic." No other state that uses a state-imposed end-of-course exam counts it for as much as Pennsylvania will count the Keystone Exam. Using a "0" score for a failing test grade is not necessary in light of the fact that students will know that they will have to pass each Keystone Exam in order to pass each course, and possibly to graduate. Knowing that to be the case, students will take the Keystone Exams seriously. This punitive measure is not needed as a further measure to ensure that the tests are not taken lightly.

### **Final revisions that PSBA supports**

PSBA does not object to all of the changes made to the final form regulations after our March agreement. The concept of replacing the 11<sup>th</sup> grade PSSA test with the Keystone Exams is one that may be beneficial to students. Because the Keystone Exams are end of course assessments rather than a single comprehensive assessment, the material on which the test is based will be much fresher giving students a better opportunity to score well.

Additionally, PSBA is supportive of provisions creating a State Assessment Validation Advisory Committee to advise the department on activities surrounding the validation of the Keystone Exams and the provisions creating an advisory committee to assist the department in the development of performance level descriptors and cut scores. Like the Local Assessment Validation Committee mentioned previously, these committees will be made up of stakeholders, with the expectation that the work that results will be fair, cost effective and reasonable.

PSBA also supports a provision in the final form regulations that would deem a local assessment valid until the next review period if the state does not appropriate the funds necessary to provide half the cost of validation.

### **Conclusion**

There is no question that the final form regulation contains numerous improvements over the proposed version, including the provisions that were part of PSBA's March agreement with PDE and the State Board. However, there are many critical concerns that remain, particularly those dealing with implementation and remediation costs, fairness to students and loss of local control over the grading system used by the school entity.

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PSBA therefore is unable to support the final form regulations, primarily due to the questions raised by the 33% and "0" grade issues. Consequently, we ask the commission to communicate to the State Board that it will not approve the regulations until further work is done to address these two areas. If the State Board indicates that it would like to reconsider these provisions, we would ask that the commission grant the authority to toll the time for review.

I thank you for your consideration.

Sincerely,



Thomas J. Gentzel  
Executive Director

Enclosure

## RESOLUTION

**WHEREAS**, there has been significant debate throughout the Commonwealth as to the propriety of the Keystone Exams and that there has been vigorous discussion within the membership of the Association as to the propriety of such examination; and

**WHEREAS**, this Board of Directors has heard the concerns and opinions expressed by the membership of the PSBA; and

**WHEREAS**, discussions have continued since the March 4, 2009 agreement by different constituents in an effort to improve the Keystone Exams, which have resulted in improvements; and

**WHEREAS**, the Association acknowledges the good faith efforts of the State Board of Education to reach a suitable compromise; and

**WHEREAS**, the PSBA has been requested to respond to the most recent outline of the proposal with respect to the Keystone Exams; and

**WHEREAS**, more information is needed for the PSBA to make an informed decision;

**NOW, THEREFORE**, *be it resolved*:

1. That, consequently, at this time, the Pennsylvania School Boards Association is unable to support the current outline of the proposal referred to as the Summary Revised Plan for Pennsylvania High School Graduation Requirements, dated July 9, 2009, as currently written;
2. That the Association supports inclusion of all of the proper stakeholders in the future development of the program;
3. That the Board of Directors directs staff of the Association to participate actively in the gathering of necessary information and participate in a constructive manner in the development of a proper or appropriate program, in cooperation with other stakeholders to craft a program that meets the needs and interests of our membership and our students; and
4. That staff of the Association keep the Board of Directors fully informed.

Approved by PSBA Board Of Directors  
July 12, 2009