



Proposed Standards and Assessment Regulations/Amendments

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February 10, 2016

Today I offer testify for the Education Law Center and the American Civil Liberties Union of New Jersey about the proposed amendments to NJ's Standards and Assessment regulations, N.J.A.C. 6A:8, including changes in high school graduation requirements. We have a number of concerns which we raise today and will address in more detail as the regulatory review process proceeds.

Our foremost concern is that the proposals do not address or rectify the ongoing violation of the rights of seniors in the class of 2016 that threatens the graduation prospects of thousands of students this June.

Last year, the Department of Education ("Department") stopped administering the HSPA and AHSA to high school juniors, even though the existing assessment regulations, to this day, require that "students demonstrate proficiency in all sections of the HSPA or AHSA process" to a receive a NJ "state-endorsed diploma." N.J.A.C. 6A:8-5.1(a)6. Instead DOE mandated administration of six new PARCC high school exams.

While existing regulations authorize the Commissioner of Education to designate the state assessments to be used to measure "progress toward meeting the Core Curriculum Content

Standards,” they do not authorize changing the graduation requirements set by statute or amending the existing regulations without the opportunity for public review and comment required by the Administrative Procedure Act.

Yet this is precisely what the Department has done. The belated initiation of a process to amend the existing regulations has put proposals before the Board which cannot be finally adopted for months at the earliest. These new rules cannot fairly be imposed retroactively on current seniors who are entitled to graduate under the rules that have been in place throughout their high school careers and that remain in effect today. We have similar concerns about the impact of the proposed amendments on other students currently in high school. If such regulations could be ignored or changed by Department memos, we would not be here today discussing proposals to revise them for future classes.

Over the past year, NJDOE has:

- Changed the standard for high school graduation by substituting PARCC tests with passing rates of 30-40% for the HSPA which had passing rates of 80-90%. This is a dramatic change in the proficiency level that has been the NJ high school graduation standard since 2002. This abrupt shift has left tens of thousands of seniors “now scrambling to find ways to prove their readiness for graduation so they can receive their diplomas in June.” *The Record*, 2/4/16.
- Eliminated the Alternative High School Assessment (AHSA) used annually by approximately 10,000 students to satisfy state standards, including a large percentage of the state’s English Language Learner graduates.
- Replaced the AHSA, with a series of commercially-produced, “English-only” exams, including the SAT, the ACT and the ASVAB military test, some of which require fees and none of which are authorized by the current assessment regulations as graduation

exams.

- Adopted a complicated system of graduation tests that has provided fewer opportunities to pass for current seniors than for students in lower grades.
- Eliminated opportunities, required by the NJ High School Graduation statute, for students who did not pass the state graduation exams as juniors to retake the tests in their senior year.
- Revised the Department's graduation appeals process—which also has never been authorized by the assessment regulations—and made that process more difficult and burdensome for schools and students.

As a result of the Department's actions, none of the "options" identified in the Commissioner's memos over the past year as ways for students in the class of 2016 to satisfy the new graduation requirements appear in the State assessment regulations, while the only assessments that do appear in the regulations, HSPA and AHSA, have been discontinued.

This is a serious violation of the rights of the class of 2016 and potential grounds for legal claims by seniors denied a diploma on the basis of improperly imposed new graduation requirements.

In addition to being unfair and illegal, the Department's graduation proposals are educationally inappropriate for several reasons.

The new standard for graduation has not been subject to adequate public or legislative review. The Department has never explained the basis for the various (and shifting) cut scores on more than a dozen different exams, or what the common standard is between a score of 750 on the PARCC ELA10 exam and a 31 on the ASVAB military placement test—both of which qualify as diploma standards under the Department's scheme.

The Department is using tests, like the SATs and ASVAB, that are not aligned with state curriculum standards to measure student mastery of those same standards, a purpose for which they have not been designed or validated.

The new rules are leading to an increase in testing at the very time the Department says it is committed to eliminating overlapping layers of assessment. As we speak, thousands of seniors who did not pass PARCC are facing repeated administrations of Accuplacer or ASVAB or rushing to re-take PSATs or SATs before those tests are revised and made more difficult, all in an effort to jump through the Department's new graduation hoops.

District educators, especially guidance counselors, are devoting resources and staff time to extra rounds of testing and demanding graduation appeals when they should be helping seniors plan for college and post-secondary opportunities.

Parents and students are facing stress, anxiety and uncertainty, particularly in high needs districts where previous pathways to graduation have been closed or made more difficult. In fact, while the use of PARCC scores has been curtailed for school accountability and educator evaluation purposes, current high school seniors will be the first to face high stakes consequences for these new, unproven tests.

NJ has had four graduation tests since the High School Graduation statute was passed in 1979. None has ever been used as a graduation standard after a single administration of a new test, let alone one as controversial as the PARCC exams. This year, NJ is the only state in the nation using PARCC as a high school exit exam. By contrast, Massachusetts, a PARCC state to which New Jersey is often compared, continued to give its existing state graduation test because it was clear the PARCC tests were not ready for such use.

Beyond the immediate impact on the class of 2016, we have a number of other concerns about the proposed amendments, which, as noted above, we will address in more detail in

subsequent comments. These include:

- The proposal, beginning with the class of 2021, to designate passage of the ELA10 and Alg I tests as diploma requirements. The High School Graduation statute explicitly requires an 11th grade test measuring state proficiencies in ELA and math.
- The statute also requires that seniors who “previously failed to demonstrate mastery of State graduation proficiency standards” be given retesting opportunities in 12th grade. While the proposed amendments mention “multiple opportunities to take the assessments” it is not clear how these opportunities would be provided for end-of-course PARCC exams tied to specific courses that students may no longer be enrolled in during senior year.
- Beginning with the class of 2021, the proposed amendments would make the PARCC exams and the Department’s appeals process the only assessments that could be used to satisfy graduation requirements. Yet the appeals process is not included as one of the “major components” of the state assessment system and the criteria for evaluating appeals is not defined.

These issues should be addressed before the proposal is adopted.

Last week, the Department issued a press release trumpeting the fourth straight year of increases in NJ’s high school graduation rates. Yet the Department’s current plans threaten a sharp reversal of this progress with the greatest impact on our most vulnerable students.

It is not too late to change course. The Governor’s own Task Force on College and Career Readiness proposed an alternative in its 2012 report when it anticipated the need for a multi-year transition period to phase in a new state assessment system. That report recommended a phased transition to new assessments during which “the state Department of Education will not establish a minimum passing score as a graduation requirement. Instead, graduation will

be dependent on satisfactory completion of the required courses, as established by local boards of education, with accountability coming from a more robust transcript....” (Final Report, p. 47)

The Board should return to this recommendation, roll back the testing requirements for the class of 2016, replace the Department’s proposal with one that safeguards the rights of current high school students, provide for a more educationally appropriate transition to a new assessment system, and avoid a disruptive graduation crisis this spring for students, their families and secondary schools across the state.

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