

June 1, 2015

Members of the Council on Elementary and Secondary Education  
255 Westminster St.  
Providence, RI 02903

Re: Petition for Rulemaking

Dear Council Members:

Pursuant to the Rhode Island Administrative Procedures Act, R.I. Gen. Laws §42-35-6, and the Board of Education's Title A regulations, Title A-1-23, we respectfully submit the enclosed petition proposing amendments to the Board's Secondary School Regulations: "K-12 Literacy, Restructuring of the Learning environment at the middle and high school levels, and proficiency based graduation requirements (PBGR) at High Schools."

We recognize that the Council only recently approved amendments to these regulations in February. However, the approved version of the regulations differs in a material way from the proposed version with respect to districts' use of statewide assessments, and has been further expanded administratively through a recent Commissioner field memo.

Our petition seeks to restore the Council's original proposal to continue the moratorium on using statewide assessments for purposes of high-stakes testing until 2020, and also to bar school districts from using assessment results as a factor in student grades. Support for this deferral until 2020 initially came from the Commissioner, who in August 2014 noted that students, families, teachers and district staff needed adequate time to prepare for using the new PARCC test. Apparently in response to the appeals of some educators, the proposed deferral until 2020 became optional in the final regulations, so that districts can elect to use PARCC as a graduation requirement as early as 2017, when a legislative moratorium on high stakes testing expires. Without any formal discussion, the Commissioner has further advised school districts that, as early as this upcoming school year, they may use PARCC scores as a component of students' grades (Commissioner's Weekly Field Memo, January 16, 2015, p. 4).

We believe the Commissioner's initial rationale for a 2020 timeline is incontrovertible.<sup>1</sup>

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<sup>1</sup> At the August 2014 CESE meeting where the 2020 date was first proposed, the Commissioner commented: "Those students are going into 7<sup>th</sup> grade this year; so implementing it for that class would mean that we would have two years of those students having experience with the PARCC assessment in middle school. Which would mean that they would have instruction and intervention and supports as necessary in middle school prior to their arrival in high

Only such a timeframe will allow RIDE and the LEAs adequate time to put the instructional and other supports in place to give every student a fair chance to pass the PARCC. These opportunities include multiple years of experience taking the new tests, prior warning to families of students who are struggling with achieving adequate scores and, most importantly, adequate time to implement individualized supports and services for those students as mandated by the regulations. None of this can be accomplished – or, at least, accomplished well – with an expedited timeframe.

Locally and nationally, views on statewide assessments are changing rapidly, as districts encounter problems with testing implementation, public opposition to testing builds, and as Congressional reauthorization of the ESEA with major changes in the federal accountability framework and a de-emphasis on testing looks more promising. These developments provide additional reasons for the Council to consider this petition and to halt or slow down punitive use of the PARCC against students:

- The number of states making use of the PARCC has declined significantly. While PARCC boasted having 25 participating states in 2011, the Partnership notes only 13 states participating in the 2014-2015 assessments.  
<http://www.parcconline.org/parcc-states>
- RI school leaders had concerns with the way Pearson Education Inc., the PARCC manufacturer, responded to technical issues related to the test administration. Pearson’s call center was not always able to answer questions from the field. (Providence Journal article, 04/29/15, quoting Mary Ann Snider, director of educational excellence at RIDE)
- Several Rhode Island superintendents have noted that scheduling the PARCC, followed by a national science test, the National Assessment of Educational Progress, and then Advanced Placement exams, puts a heavy burden on teachers and school schedules. *Id.*
- In Rhode Island, parents participating in the opt-out movement have established presences in such diverse communities as Chariho, Cumberland, Burrillville, Tiverton, Pawtucket, North Smithfield, Smithfield, Exeter-West Greenwich, East Greenwich, Woonsocket, East Providence, and Bristol-Warren. This growing dissatisfaction with current policy includes people of varied political beliefs. Parental concerns about

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school. It also means that we’ll be able to tell them and their families very clearly, before they come to our high schools, not only what the requirement is, but also where they are in terms of progress towards meeting their requirement. I think that importantly, we’re making sure that for those students, the districts have done everything they need to do to be fully prepared for them to be successful once they get there.”

over-reliance on testing also continue to increase nationally.<sup>2</sup> Concerns about testing can only be exacerbated to the extent it is used for high-stakes purposes, and used in a rushed timeframe.

- A bipartisan revision of the ESEA that unanimously passed out of a U.S. Senate Committee on April 16th clarifies new freedoms states have with respect to their establishing and using assessment systems. In particular, the Secretary of Education would no longer have the authority to: require that a State use specific academic assessment instruments or items, set criteria for the specific types of assessments or assessment items that States and local educational agencies use to meet the requirements of the Act, set the specific metrics used to measure student academic performance, or set the specific weight or specific significance of any measure or indicator of student academic achievement within State-designed accountability systems. Consequently, the Board is free to reconsider its policies in these and many other areas without regard to federal pressures.<sup>3</sup>
- There is a broad-based research consensus that test-based accountability fails to improve schools or student achievement. After an entire generation of test-based accountability policies, the focused testing in reading and math over this period should have raised scores in these areas. Instead, some research suggests only small gains while other research finds no improvement (Lee and Reeves, 2010).

In your public discussion of the merits of this petition, we ask that you recall the original purposes behind ESEA: to raise the quality of educational opportunity available to students in poverty, students with disabilities, racial minorities, and other student groups that did not thrive in the public education system.

In short, the rapidly changing landscape of test implementation experiences, public views, the supportive services required by regulation and other factors all counsel against authorizing use of PARCC either as a high-stakes assessment in 2017 or as a grade component. For these reasons, we are asking the Council to return to its original proposal for deferring the use of statewide assessments as a high-stakes test until 2020, and to implement the changes described in our enclosed petition.

In doing so, we wish to highlight that the regulations' allowance for high stakes testing in 2017 was added only *after* a public hearing had already been held on regulations proposing a 2020 date, and that use of the PARCC for grading purposes was not the subject of a public

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<sup>2</sup> See <http://www.washingtonpost.com/blogs/answer-sheet/wp/2015/05/03/why-the-movement-to-opt-out-of-common-core-tests-is-a-big-deal/>.

<sup>3</sup> See [http://www.washingtonpost.com/local/education/senates-effort-to-rewrite-nclb-sparks-cautious-optimism/2015/04/08/c7eaac42-ddf4-11e4-be40-566e2653afe5\\_story.html](http://www.washingtonpost.com/local/education/senates-effort-to-rewrite-nclb-sparks-cautious-optimism/2015/04/08/c7eaac42-ddf4-11e4-be40-566e2653afe5_story.html)

hearing at all. Therefore, acceptance of this petition will provide the public its first real opportunity to address these specific issues surrounding implementation of the new PARCC test.

In asking you to initiate formal rule-making proceedings, we are not requesting Council members to take a definitive stand on the merits of the petition. Although we hope to ultimately convince you of the merits of this rule change, we trust you agree it is at least worthy of a full public discussion, and of one sooner rather than later. We therefore urge you to accept this petition and, in accordance with the APA, initiate a public rule-making process where all members of the public can provide testimony, and where you can then consider in a timely but deliberate manner whether to accept, modify, or reject this proposal.

While our fundamental stance that the PARCC should not be used at all as a graduation or grading requirement remains steadfast, we propose these more modest changes because we at least want to make sure that LEAs have time to carefully put in place the kinds of educational and support processes that are laid out in the regulations and that give all students, and especially vulnerable students, the best possible chance to meet any standard set for graduation in 2020. Implementing the PARCC as a graduation requirement at an earlier rather than later date inevitably jeopardizes that possibility.

We express our appreciation in advance to you for your consideration of this petition. For ease of communication, any responses can be sent to Steven Brown at the ACLU of Rhode Island, and they will be shared with the rest of the signatories.

Sincerely,

Steven Brown - American Civil Liberties Union of Rhode Island  
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Sheila Resseger – Coalition to Defend Public Education  
 Camilo Viveiros – George Wiley Center  
 Jim Vincent – NAACP Providence Branch  
 Rick Harris – National Association of Social Workers, RI Chapter  
 Lisa Conlan – Parent Support Network of Rhode Island  
 Jean Ann Guliano- Parents Across Rhode Island  
 Zack Mezera – Providence Student Union  
 Anne Mulready- Rhode Island Disability Law Center  
 Nancy Cloud - Rhode Island Teachers of English Language Learners  
 Brother Michael Reis – Tides Family Services  
 Karen Feldman - Young Voices

Enclosure

cc: Board of Education Members  
 The Hon. Gina Raimondo