

**Testimony on Regulations of the Board of Education on
“Regulations of the Council of Elementary and Secondary Education:
Middle and High School Learning Environments and the Rhode Island Diploma System”**

September 12, 2016

We are responding to your invitation to all interested parties to participate in the public hearings and submit written comments on the RI Board of Education’s intent to adopt revised “Regulations of the Rhode Island Council on Elementary and Secondary Education: Middle and High School Learning Environments and the Rhode Island Diploma System.”

Members of our coalition have testified before the Board of Education on many occasions as the Board has worked and reworked these regulations. The consistent theme of our comments is that no system of awarding diplomas should unfairly disadvantage students whose learning is already strongly, and negatively, impacted by conditions originating outside the classroom. Such students include those with IEPs or 504 plans, those learning English, those who are economically disadvantaged, and those who are members of most racial/ethnic minorities.

Our comments have largely focused on the use of standardized tests as a graduation requirement. Our position is that, due to the way standardized tests are structured, a large portion of test takers will always fail these tests. And, because the pattern of test failure mirrors the pattern of disadvantaging socio-economic structures, this use of tests is a violation of civil rights at the individual level and discriminatory at the societal level. Our comments, which follow, are consistent with these convictions.

We support the Council’s decision to eliminate the requirement that a student achieve a prescribed score on a standardized test as a graduation requirement. Our coalition has detailed its objections to this use several times to the Council previously, describing the major harms of this policy as 1) its inequitable impact on students based on their socio-economic and racial-ethnic or linguistic status; 2) its limited use as a meaningful indicator of graduation readiness; and 3) its negative, reductionist impact on instruction and curriculum.

We support the Council’s decision to eliminate PARCC testing beyond the ninth grade, which complements its decision to eliminate the high stakes use of test scores in the graduation system.

We support RIDE providing free PSAT/SAT testing to all students with sufficient proficiency in English who wish to take advantage of this part of the pathway to post-secondary education. We urge RIDE to proactively support districts, schools, and students (including providing funding for test preparation) when they do not do well on this metric of preparedness.

At the same time, **we oppose any effort, recently suggested by the Governor, to substitute SAT scores** for the PARCC as a graduation requirement.

We oppose the Council abandoning its regulatory role by allowing districts to use state assessments for high stakes testing in exactly the way Council has determined not to do on a statewide level, and doing so as early as next school year. By allowing local level policies that contradict state level policies, the Council has created a policy that is not a policy. We urge the Council to require statewide consistency that does not permit the use of statewide assessments to prevent graduation. Students likely to suffer adverse and inequitable impacts of high stakes testing include students with IEPs or 504 plans, English language learners, students of color and those from impoverished backgrounds. The Council and RIDE should not abandon their traditional roles of protecting the civil rights of these students and promoting the learning of these students.¹

We oppose using the “Commissioner’s Seal” as a metric for school accountability since the “Seal” depends largely on state assessments. This use could put pressure on schools to use high stakes standardized testing in order to improve their standing for purposes of accountability. **All school accountability criteria should be a part of this regulatory process** since they will shape how the diploma system is implemented locally.

We oppose diluting both RIDE oversight of local supports to students with achievement gaps and the specificity of such supports. Currently, these are found in Personal Literacy Plan requirements. Ensuring the success of at-risk students and closing the achievement gaps depend on the supports provided to such students.

We urge a return to the original language of Section L-6-3.5 currently in place regarding certificates. The new title of this section, “Alternate recognition of high school accomplishment,” as well as the proposed revisions, sanction district use of “alternate recognition certificates” for those students who do not meet diploma requirements. In contrast, under the existing rule, certificates are not defined as diploma “alternatives” and districts may award certificates to any student, not just those who are ineligible for a diploma. We fear the proposed change will give districts tacit approval to encourage underperforming students to accept something less than a high school diploma, and not provide the supports that these students need to meet diploma requirements. For at-risk students, and particularly for students with disabilities, who appear to be the primary targets of the proposed rule, this could result in the creation of an unequal second tier high school experience, and a de facto “special needs diploma.”

Many of these issues, along with additional suggestions, are contained in a letter we sent the Council in May before these regulations were sent out for formal public comment. We have enclosed that letter, which we ask you to consider as a supplement to this testimony.

¹ Both this provision, allowing high stakes testing as a district choice, and the Governor’s recent comments suggesting an openness to using SAT scores as a high stakes test requirement, only perpetuate, rather than put to rest, the anxiety and confusion parents and students have raised for years about such testing. They certainly undermine Commissioner Wagner’s attempt to allay any such concerns when he highlighted RIDE’s decision to eliminate a statewide high stakes testing graduation mandate. See his recent comments on 10 News Conference: <http://turnto10.com/politics/10-news-conference/10-news-conference-dr-ken-wagner>. Indeed, concerns about high stakes testing have forced some parents to make important decisions about their child’s educational trajectory, and continued ambiguity on this key issue benefits no one.

We therefore urge the Council to adopt the new provisions of these regulations for which we have expressed support, and to revise or rescind those portions to which we have raised concerns and objections. Otherwise, we request that, pursuant to R.I.G.L. §42-35-2.6(1), you provide us with a statement of your reasons for not accepting the arguments we have made, in this testimony and our Memorandum of May 16, 2016, in opposition to those provisions.

Thank you for your time and attention to our testimony. For ease of communication, any responses can be sent to Rick Richards at rickrichards@gmail.com, who will share them with the organizational signatories below.

Sincerely,

Rick A. Richards

American Civil Liberties Union of Rhode Island

The Autism Project

Coalition to Defend Public Education

NAACP Providence Branch

Parents Across Rhode Island

Providence Student Union

Rhode Island Disability Law Center

Rhode Island Legal Services

Rhode Island Teachers of English Language Learners

Tides Family Services

Young Voices

Enclosure (May 16, 2016 Memorandum to the Council)