

Testimony of Helene Fallon

to the

**Long Island Region public hearing for the New York
Education Reform Commission**

Thursday, October 11, 2012

**SUNY College at Old Westbury, Student Union Building:
Multi-Purpose Room, Old Westbury, NY 11568.**

Thank you for this opportunity to provide this testimony concerning critically important issues related to Student Achievement and Family Engagement. I am Helene Fallon, Executive Director of the Learning Disabilities Association of Long Island, a Professional Development Specialist by trade and the parent of two young adults with special needs. This testimony concerns the importance of more meaningful family involvement in our education system, New York State's changing graduation standards, and the need to establish multiple pathways to graduation that fairly and effectively evaluate students' knowledge, proficiency and career and college readiness.

Over 25 years of extensive research, done many by institutions including Harvard (Harvard Family Research Project; Research Report 2012) and Johns Hopkins Universities (Center on School, Family and Community Partnerships) have proven how meaningful family engagement, including students, in education leads to better outcomes in graduation rates, employment and overall success in life. As the commission before me continues its very comprehensive work, I wanted to take this opportunity to ask you to please engage families and students from the beginning of your conversations. We must be at the table, we must be part of the conversation at all levels of education.

The New York State Board of Regents has recently implemented some major changes to the available graduation pathways, while other changes remain under discussion. In recent times, the Regents have **eliminated the IEP diploma** for special education students. The Board has also **sharply curtailed the availability of the New York State local diploma**, making it in-effect a special education diploma for a segment of the special education population. The vast majority of students must now earn a Regents

Diploma in order to graduate from high school. As an educator, I am a strong supporter of high standards but also recognize that many students cannot achieve success passing the NYS high stakes tests yet they are more than capable of transitioning into a successful Post- Secondary career. The Board of Regents has also authorized a **new non-diploma “commencement credential”** for the small number of special education students who are in alternative assessment pathways. The Board has also recently authorized NYSED staff to begin development of a **similar non-diploma credential for special education students other than those in alternate assessment**. In addition, NYSED has proposed regulations to **redefine the special education “safety net”** for graduation. Other options also are under discussion, including **new career and technical education options** that would allow students new options in pursuing education in technical careers.

For reasons I will discuss, we have very serious concerns about these changes. First, all of these changes, both those already implemented and those still under development, rely on a student’s ability to demonstrate their success in school by passing standardized, high stakes exams. While we may support certain incremental and limited initiatives now under discussion, we are increasingly concerned that virtually all alternative pathways proposed by SED are still based on standardized, high stakes tests. While certain elements of the SED proposed pathways may be a good start, there is still no recognition that many children, such as those with learning disabilities, will not be able to demonstrate their learning, proficiency and mastery of the high school curriculum through high stakes, standardized tests. These proposals could lead to discriminatory

practice and can have the effect of segregating students with disabilities in school, and in their post-education careers.

We need to keep asking, what about those children who due to their disability, or for other reasons, will not be able to demonstrate their skills and proficiency through standardized, high stake tests? What will become of them? We need multiple pathways to a REAL recognized, valued diploma, NOT based on high stakes testing. The remainder of my testimony was distributed electronically to the Commission, along with a publication on Communities of Practice. An Educational Framework that is being used successfully on a national level. I thank you in advance for considering our concerns and recommendations.

Loss of Local Diploma

According to very important research from New York City's *Advocates for Children*, without the local diploma in New York State, as many as 14,000 general education students from the 2006 high school cohort and in each subsequent cohort are not likely to graduate from high school within four years.¹ An additional 7,000 students with disabilities are not likely to graduate within four years in 2015 when one of two local diploma pathways is eliminated for these students.² Of the students at risk of not graduating because the local diploma will not be an option: 33% would be students with

¹ Estimates are based on New York State data from the 2006 high school cohort.

² There are two ways for students with disabilities to currently earn a local diploma: 1) passing up to six Regents Competency Tests (RCTs) instead of the Regents exams and 2) passing up to five Regents exams with a score between 55 and 64. Beginning in 2011, the RCTs have been eliminated for all entering entering ninth graders and all subsequent classes. The effects of this change, however, will not be observed until June 2015. The latter pathway to a local diploma for students with disabilities will remain an option.

disabilities; 30% would be Black; 26% would be Hispanic; and 8% would be English Language Learners.

Our Continued Opposition to High Stakes Testing

There is ample research and evidence to demonstrate convincingly that many children *by the nature of their disability and through no fault of their own* are unable to demonstrate their knowledge and proficiency through standardized exams. This is why we and many others, including the more than fifty organizations that have joined the Coalition on Multiple Pathways to a Diploma, are adamant that children need alternative pathways to a diploma. It is incumbent on the Department and the Board of Regents to work on developing these pathways, with the advice and input of LDA, Parents, Students and other stakeholder groups, so that these children will not be denied a meaningful and recognized Regents diploma upon exit from NYS high schools.

The current Local Diploma as now configured, is a track to life-long failure

In addition to not addressing this fundamental issue of alternative pathways, the current proposals now under development have serious drawbacks. The proposal to expand the safety net with a compensatory model (which would allow students to offset a poor grade on one Regents exam with a better grade on another) is worthy insofar as it would provide some useful flexibility for students who may struggle with one or two exams. Still, it requires students who cannot succeed with high stakes tests to take those exams, then fail, and then if they cannot meet a cumbersome appeal process, be denied a diploma. The compensatory approach is also flawed in that it would award a local diploma only for

students who are in special education, have a 504 plan, or appeal successfully a failed Regents test. In effect this policy makes a de facto student-with-disabilities-only diploma.

There should be no question that the local diploma in NYS will be identified as a diploma exclusively for students with disabilities, and will fast become a diploma which is stigmatizing and of little value, leaving students with disabilities once again with a diploma of little real world value to access postsecondary entry into college, training, career and military.

ADA, Section 504, IDEA

In view of the Americans with Disabilities Act (ADA), Section 504, and the Individuals with Disabilities Education Act (IDEA) we question the legality of the current public policies and approaches being considered by SED and presented for approval to the Regents. The policies directly result in continuing a separate, secondary and less valuable education and diploma track and unacceptable testing to obtain course credit for students with learning disabilities; and significantly limited postsecondary opportunities.

We have known for decades that many students with learning disabilities are unfairly assessed by high stakes testing, and that they need alternative assessments, a wider range of accommodations than are currently allowed; and more course waivers that allows them to demonstrate their knowledge, skills, and mastery of the curriculum, rather than be assessed unfairly because of their disability. *“Do No Harm – High Stakes Testing and Students with Learning Disabilities”* was a widely distributed report on the negative

impact of testing on students with learning disabilities published more than a decade ago. The report identifies critical policy changes needed to ensure that students with learning disabilities are fairly and reasonably assessed. This report succinctly demonstrates the need for alternative assessments with the following:

“Many learning disabled students will not be fairly tested if they do not take an alternate assessment, regardless of the accommodations provided because the learning disabled student is inherently disadvantaged by many standard assessments. First, many tests, in fact, assess the student's disability or test-taking ability. Because students with reading disabilities such as dyslexia process information differently than non-disabled students, accommodations will simply not be enough to level the playing field on a test that assumes all students are reading, writing, and learning in the same manner.

Second, the compensating strategies that students with learning disabilities use are at odds with the nature of many tests. Learning disabilities are permanent conditions and learning disabled students often have to use a number of compensation clues. These strategies may be useless on a test that does not provide enough text for these clues to be useful. As a result, providing more time on these examinations or allowing a learning disabled student repeated opportunities to take an assessment are not solutions because they ignore the permanent nature of learning disabilities and incorrectly assumes that a learning disabled student will be able to correct mistakes caused by his disability. Moreover, the learning disabled student will be far more susceptible to the stresses during test taking than a non-learning disabled student. Negative side effects of these

stresses include diversion from the material, high energy consumption, anxiety and frustration at levels not encountered in other students - all of which can further inhibit performance.” (Do No Harm, a report from Disability Rights Activists; 2011; p 9-10; 449 15th Street, Suite 303 Oakland, CA 94612-2821, http://www.dralegal.org/publications/do_no_harm.php)

The new non-diploma credential is not a “Replacement” for the IEP Diploma

The non-diploma credential for students with disabilities, whatever its merits, it is not a substitute for a diploma. We are very concerned that implementation of a non-diploma credential in advance of adoption of an alternative pathway to a diploma will only result in students being misled to pursue this non-diploma option, much as the way students before them were misled to pursue the IEP diploma, only to realize upon leaving school that they have received a virtually worthless credential. Is it the Department’s intent to replace a near worthless document like the IEP diploma with a non-degree credential, and not offer true diploma options for students with special needs? Our past support for eliminating the IEP diploma was linked to a commitment to the Regents support for developing viable diploma options for students with disabilities, not for “replacement” with another non-diploma.

Career Technical Education (CTE)

We have voiced our full support for the redevelopment of CTE curriculums, and the creation of CTE diploma pathways that will be aligned to the real world business, trade and technical needs. We believe that done correctly, CTE has the potential to provide a worthy and viable option for many students with learning disabilities.

However, as is widely documented and reported in the focus groups held by the Regents and SED, the availability of useful CTE programs in New York State school districts is uneven at best, and unavailable to most. The Regents should pursue a policy that ensures all students throughout NYS have access to all CTE courses.

We are also concerned that the CTE graduation proposals discussed by the Board and SED to-date still maintain the requirement for students to demonstrate their proficiency with high stakes, standardized exams, albeit with perhaps one exam substituted for demonstrated CTE proficiency. While we support expanding CTE options, we still find these current proposals unacceptable, as they still require students to take standardized, high stakes exams to receive course credit towards a diploma.

Impact of New Initiatives, National Standards and National Assessments

We are very aware that we are in the midst of a rapidly changing context with the development of national standards and assessments. We also know that the GED is undergoing dramatic changes that will by virtually all accounts make it much less accessible for individuals with disabilities. Even recent congressional action to restrict Title IV funds from the Ability-to-Benefit test further restricts opportunities for students with disabilities to access training after leaving high school. We are also aware that NYS recently received their waiver from ESEA regarding some of the cumbersome NCLB requirements. While we recognize the paper-work relief, there is real fear that this waiver will further limit focus and attention to students with disabilities at the local level.

We are enthusiastic about the rollout of Response to Intervention in the coming year for K to 4th graders; and have high expectations that RtI can start to successfully impact early recognition of students with learning disabilities and provide them the research-based interventions that will ensure they learn basic skills before high school.

All of these changes will take time to assess their full impact on students. We cannot wait for students who are already in “the pipeline” moving towards graduation.

We believe that the Regents needs to move forward quickly and establish strong policies that identify alternative pathways that will ensure full access to a wider range of curriculum and result in a valued Regents endorsed diploma and graduation for students with and without disabilities. New Yorkers should expect that our schools will provide all students adequate preparation and instruction that will prepare them at a minimum for entry into a NYS community college without the need for remediation, a competitive entry-level career, career-based training and technical programs, or military.

Key Questions

Within this context we ask:

- Will it be the policy of the New York State to tell children with and without disabilities, who cannot take standardized tests, that they have no options for a real high school diploma, and that only students who can master the standardized test are worthy of graduation with a recognized NYS diploma?

- With the current policy proposals of NYSED, is the implied answer to these questions that these children do not deserve a recognized diploma, and that they must therefore endure the lifelong social, economic and cultural deprivation associated with high school dropouts?

The current proposed policies are unacceptable to us, and we firmly believe should be unacceptable to all New Yorkers.

Recommendations

To address these issues, we recommend that New York State Develop Alternative Authentic Assessments leading to a recognized, bona fide Regents Diploma: Our current limited one-size-fits-all course requirements and paper-pencil test assessments leave out many students, especially those with learning disabilities, from demonstrating proficiencies, talents, and skills and mastery of the curriculum in alternative ways. Learning preferences should be recognized, and a wider range of testing accommodations should be readily available. There should be more opportunities for component retesting, portfolio development, and product demonstrations to accurately reflect their readiness for real postsecondary career and college demands.

Closing

We want all NYS students including those with Learning Disabilities to have access and full opportunity to a diploma

Many students with learning disabilities and related neurological impairments are among the *hardest working* students in school. They are also recognized as some of our brightest students in technology, art, math and science. Time and time again we hear of students with learning disabilities struggling against long odds with much determination, long hours of study, and very hard work so that they will learn and prove themselves in school. They deserve an alternative assessment leading to a diploma that accurately reflects their learned skills, abilities and proficiencies. There are successful alternative pathways now in practice, such as skills-based CTE assessment, waiver schools such as School without Walls in Rochester, and alternative methods of demonstrating mastery of the curriculum such as oral presentations, projects, and performance based activities which demonstrate not only a high degree of factual information and skills in math, science, etc. but also demonstrate that the student can apply and synthesize the skills and information taught. It is incumbent upon all of us to make this happen and we urge you to redouble your efforts to open-up pathways to graduation with a recognized bona fide diploma that is not based on high stakes testing.

LDA of NYS looks forward to continuing to work closely with the Regents, SED and legislators, and to contributing the knowledge, research, and experiences of children and adults with learning disabilities and their families, and the professionals who work on their behalf. We welcome your questions and an opportunity to further explore alternatives that will support NYS students. For more information and clarification of any issue or concern, please contact Helene Fallon @ 516 815-5659,

hafallon@optonline.net or Stephen Boese, Executive Director of the Learning Disabilities Association of New York State, 518-608-8992, sboese@ldanys.org.

Thank you in advance for taking the time to consider our concerns and recommendations.