



## Education Law Center

*Standing Up for Public School Children*

June 15, 2010

Honorable Josephine Hernandez, President  
New Jersey State Board of Education  
Trenton, New Jersey 08625

Dear President Hernandez,

As you know, Education Law Center has closely monitored NJDOE's implementation of the new Alternative High School Assessment (AHSA). As the Department proceeds with plans to use this year's AHSA scores to deny diplomas to unprecedented numbers of NJ seniors who would otherwise graduate, we urge the Board to address several pressing concerns:

**1. We ask the Department to publicly release as soon as possible statewide results for the 2010 HSPA and AHSA, including disaggregated data for student subgroups and district factor groups.**

At the June 3 hearing of the Senate Education Committee, Commissioner Schundler estimated the total number of students at risk of not receiving diplomas at roughly 4500. However, without more public transparency around the test results and the Department's hastily created "appeals process," it is impossible to know how many students remain at risk of not graduating.

ELC's analysis of the AHSA test population, based on the limited data available, indicates that English language learners and urban students of color will be disproportionately affected by the imposition of diploma penalties on students who have otherwise met all their course credit and local graduation requirements.

As the Department reported last April, 78% of English language learners do not pass the language arts portion of the HSPA on their initial attempt and 68% do not pass the math. This makes ELLs disproportionately dependent on the alternative exam to earn their diplomas.

However, this year's standardization of the AHSA effectively restricted or eliminated many of the accommodations previously available to these students, including the availability of translated test materials, extended time to complete the performance assessment tasks, culturally appropriate test content and timely feedback on student responses. These test accommodations were all limited by the Department's AHSA guidelines, and because no pilot was conducted the consequences for ELL students were largely unanticipated and unaddressed.

ELL seniors were also negatively affected by the vendor-run scoring process, in which ELL educators were poorly represented. Participants in the scoring process have reported that there was less sensitivity to ELL students particularly in scoring the writing section, including less familiarity with their writing patterns and less clarity and consistency in distinguishing between passing and failing scores. Similarly, ELL students were negatively affected by the Department's

decision to rescore thousands of reading and math responses from the January test, but not to rescore any writing responses. (Pass rates on the January writing test were just 28%.)

To adequately gauge the impact of these factors on test scores for ELL students, we need to see disaggregated AHSA results for all students who took a complete set of performance tasks for Math and LAL. Since Measurement, Inc. the vendor the Department hired to manage AHSA scoring and data regularly supplies disaggregated results for the HSPA, it should be possible to do so for AHSA scores.

The same holds true for students of color in poor urban districts. Statewide, only about 18% of students attend schools where more than half of the population qualifies for free/reduced lunch. However, more than 50% of the April AHSA test takers came from such schools. Similarly, statewide about 28% of all students attend schools with more than 50% minority student enrollment. Yet 70% of the April test takers came from such schools. Moreover, these trends increased between the January and April test administrations, further indicating that the number of students now facing high stakes penalties for their AHSA scores will be disproportionately poor students of color and students with limited English.

For all these reasons, we ask the Board and the Department to make disaggregated test results available for the 2010 HSPA and AHSA scores.

**2. We ask the Department to provide data on the “appeals process,” including:**

- a. The total number of appeals submitted**
- b. Where the appeals came from**
- c. The number of appeals approved/rejected**

While ELC welcomes the belated appearance of the “appeals process” as a way for students to receive their diplomas, we believe its sudden appearance serves mainly to confirm the many flaws of this year’s AHSA process. Under public and legislative pressure, the appeals process was revised at least four times in the two weeks after it was first announced on May 17. As of June 15, there is still considerable uncertainty on the part of districts as to the criteria, deadlines, and procedures for appeals. Numerous inconsistencies in the appeals process have been reported that may serve as a basis for students who are denied diplomas to challenge those decisions.

Overall, the appeals process appears to be an attempt to compensate for a seriously mishandled high stakes assessment rather than a credible process of alternative standard setting. While it will allow some seniors to avoid the fallout of this testing debacle, it will also likely result in arbitrary decisions with some students falling through the cracks, unable to submit appeals, or having those appeals denied without credible, public review of the criteria being applied or the process by which these life-altering decisions have been made. It borders on ad hoc “regulation setting” by the Department.

It must also be noted that this last-minute appeals process has replaced school-based decisions made by educators who knew their students well with “appeals” to DOE officials in Trenton making decisions about students they’ve never met on the basis of uncertain criteria. This does not improve the transparency and reliability of NJ’s assessment system.

**3. We ask the Department to track and report publicly on the impact of this year’s AHSA process on graduation and dropout rates.**

Districts should be required to report whether each student who successfully completes all other requirements but does not graduate because of his/her test scores ultimately graduates by HSPA, AHSA or the appeals process, drops out, returns in the fall, or experiences some other outcome. DOE should gather this data statewide and report it publicly, again with disaggregation for student subgroups and district factor groups.

**4. Finally, we ask the Department to reconvene the SRA Advisory Committee promptly to review this year’s AHSA process and to recommend immediate steps to ensure that a more reliable and appropriate process is in place before the next school year.**

Whatever the outcome of this year’s AHSA process, it is imperative to preserve and sustain a credible alternative pathway to a NJ high school diploma. Many of this year’s problems could have been avoided or minimized if the original recommendations of the SRA Advisory Committee had been implemented or if the Committee had not been disbanded before the AHSA was implemented. As NJDOE officials told the Center on Education Policy last November for a national report on state graduation policies, “In light of the important roles advisory committees play, officials in New Jersey recommended that states proactively connect with and consult relevant stakeholders in the early stage of developing alternate pathways to graduation so their approach can be scrutinized through multiple perspectives, preventing unnecessary complications for implementation.” We urge the Department to revisit its own advice and reconvene the Advisory Committee.

Thank you for your consideration of these issues. Education Law Center remains available to work with the Board and the Department to find common ground on these mutual concerns.

Sincerely,



Stan Karp  
Director, Secondary Reform Project  
Education Law Center  
cc

State Board Members  
Commissioner Schundler

Deputy Commissioner Spicer  
Director of Assessment Peters  
Assemblyman Deignan, Chair, Assembly Ed Committee  
Senator Ruiz, Chair, Senate Education Committee