

FACTS FOR PARENTS ON OPTING OUT OF STATE TESTS



Fact Sheet No: 17-05

(UPDATE 2)

March 2018

As the next round of state tests approach, it is important to review the facts around opting out of state tests. Each year misinformation about the impact of opt-outs is presented as fact to parents around the state as school district officials attempt to convince parents to have their children take the state tests. This Fact Sheet attempts to clear up the misinformation by reviewing the federal requirements for participation in the state assessments and potential consequences of opting-out for districts, students and teachers.

NYSUT fully supports a parent's right to choose what is best for their children. Parents and teachers share deep concerns about the standardized tests used by New York State for accountability purposes. Those include: stress on students, in-appropriateness and lack of validity of the grades 3-8 ELA and math state assessments, loss of learning time, misuse of tests for high-stakes decisions, erosion of local control over school decisions and lack of transparency on state test content. Parents who decide it is not in their children's best interests to take these assessments are part of an "Opt-Out" movement in New York State. Despite the temporary moratorium that eliminates certain consequences of the state tests, these tests are still administered and used for "advisory" purposes and for identifying struggling schools.

HOW DO YOU OPT YOUR CHILD OUT OF THE STATE TESTS

The State Education Department (SED) no longer questions a parent's right to opt their child out of the state tests but has not adopted a formal state policy. Therefore, the opt-out process is different in each district. You should check with your school principal or district administrator to find out the process in your school district. If the district does not have a standard form, send the principal a letter stating the tests you do not want your child to take part in and request the district provide a productive alternative activity. All requests for opt-outs should be made in writing to ensure a paper trail should a question arise about whether you requested that your child not take the state tests. The letter should be provided to the school Principal prior to the start of the state testing period. The sooner the letter is provided the less likely the district is to dispute your request. Some parents provide the letter on the first day of school.

FEDERAL REQUIREMENT FOR TESTING

The state assessments are required by the Federal Elementary and Secondary Education Act (ESEA). Statewide assessments must measure the proficiency of students in each of grades 3-8 in, at a minimum, mathematics, and reading or language arts. The law requires that 95 percent of all students and subgroups be assessed annually. In December 2015, ESEA was reauthorized as amended by the Every Student Succeeds Act (ESSA). **A new provision in ESSA requires districts to inform parents and guardians of opt-out policies, affirms a parent's right to have their children opt-out of statewide standardized tests where state and local policies permit and prohibits the Federal government from withholding federal funds or taking any action against states or districts that do not meet the 95 percent participation rate.**

NEW YORK STATE PLAN

ESSA requires the state utilize a methodology for calculating student achievement that includes all continuously enrolled students, regardless of whether or not they took the test. Schools must report aggregate data for the schools that have student participation rates of less than 95 percent.

ESSA also makes it clear: it is up to states to determine how participation rates will factor into the state accountability system. **SED has stated publically that it is not their intent to identify schools for improvement that have low participation rates.** SED will calculate student achievement using two different methodologies, one that includes all enrolled students to meet the requirement of the law and a second calculation based only on those students that participate in the state assessments. This second calculation will be used to differentiate schools with low participation rates from those with actual low achievement. **Using this approach, no school should be penalized for opt-outs.**

POTENTIAL CONSEQUENCES OF OPT-OUTS

SED has stated that it does not support any withholding of state aid from schools or diversion of school improvement funds from those schools that need them most because of participation rates.

Districts that persistently and substantially do not meet participation rates will be required to submit a corrective action plan that will escalate over time. Superintendents will be pressured to improve participation rates primarily by creating improvement plans with increasing state oversight if benchmarks are not met. There are some districts that have attempted to discourage opt-outs through the use of punitive measures, such as sit-and-stare policies or requiring students take alternative exams. NYSUT opposes sit-and-stare policies or requiring alternative exams. There are some potential consequences for schools:

- School identified for improvement or that are under Receivership that do not meet the participation rate requirement may not be able to meet the exit criteria.
- The 95 percent participation rate will likely be a factor in determining whether a school can be designated as a “Recognition (high performing)” school.

One of the more persistent rumors is that students who opt-out will automatically receive a “level one” score that will become part of their permanent record. This is false. When reporting individual students that opt-out, districts use a code that indicates refusal and no score is reported for the child. **These students will be considered to have no valid test score.**¹

Although originally intended to evaluate programs, the assessments are used by some districts as one of the criteria for placement decisions and by the state to determine whether or not a student should receive remedial services. Actions by the state Legislature and Board of Regents have minimized how the assessments can be used. Parents should ask to review the district policies for how students that opt-out will be evaluated for both remediation and placement in advanced courses.

Additional details are available in the NYSUT Fact Sheet Opting Out of State Tests on the nysut.org web site: <https://www.nysut.org/resources/all-listing/research/fact-sheets/fact-sheet-opting-out-educators>

Doc#105664

¹ SED 2017-2018 SIRS Manual, see page 75 <http://www.p12.nysed.gov/irs/sirs/home.html>