

FACTS FOR PARENTS ON OPTING OUT OF STATE TESTS FOR 2020-21



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NYSUT's position continues to be that standardized tests are not the best way to measure a student's development, and they are especially unreliable right now. NYSUT urged the State Education Department (SED) to request a federal waiver of the testing requirements in the Every Student Succeeds Act (ESSA). The tests required by this act include the grade 3-8 ELA and math tests. NYSUT's request pointed to the difficult year students and teachers have had and the fact many students are learning either in a remote or hybrid model. Without standardized instructional modes there should not be standardized tests at the end of the year.

The State Education Department developed two draft waiver requests for the federal Department of Education. One would eliminate the requirement to administer the state tests used for accountability purposes. The second, would decouple the assessments from the accountability system. This means the assessments would still be given but they would not be used to create new accountability lists using the 2020-21 school year results. **There would be no consequence for districts that have high opt-outs for the 2020-21 school year.** The public comment on the drafts overwhelmingly supported the two waiver requests.

SED sent the waiver requests to the United States Department of Education (USDE). USDE indicated in a letter dated February 22, 2021 they will not grant waivers to eliminate the tests for the 2020-21 school year. States will be required to administer the assessments this year. The letter indicated the department will waive the accountability requirements, including the 95 percent participation rate and will provide states with some flexibility for administering the tests. This flexibility includes:

- Extending the testing window and moving assessments to the summer or fall
- Giving the assessments remotely
- Shortening the state assessment

In a statement in response to USDE, Commissioner Rosa expressed disappointment in the decision not to grant a blanket waiver of the testing requirements. SED will continue to have discussions with USDE to explore New York State's options. The Commissioner also acknowledged that USDE affirmed no child should be made to come to school to take a state assessment. SED had stated previously that no state tests will be administered remotely.

Regardless of what flexibility the federal government provides, we have grave concerns that standardized tests can be administered in any sort of equitable way. NYSUT supports Commissioner Rosa's position that no student should be forced to come to school in person just to take a test.

As this round of state tests approach, it is important to review the facts around opting out of state tests, in particular, the grades 3-8 ELA and math state assessments. Some districts have begun to provide parents with inaccurate information about the impact of opt-outs and the procedures for testing in 2020-21. This fact sheet attempts to clear up the misinformation by reviewing the potential consequences of opting-out for districts and students and the procedures for this year's tests. **NYSUT fully supports a parent's right to choose what is best for their children.**

HOW DO YOU OPT YOUR CHILD OUT OF THE STATE TESTS

SED does not dispute 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 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 if your child is attending school in person. 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 grades 3-8 ELA and mathematics state assessments are required by the Federal Elementary and Secondary Education Act (ESEA). In December 2015, ESEA was reauthorized as amended by the Every Student Succeeds Act (ESSA). ESSA continues the requirements for statewide standardized tests¹ and that 95 percent of all students and subgroups be assessed annually.

To comply with the federal requirements for the 2020-21 school year, New York State will administer the ELA and mathematics assessments in grades 3-8; Regents ELA, Algebra 1, Living Environment and Physical Setting/Earth Science; and, grades 4 and 8 science. USDE will waive the requirement that states identify the lowest performing schools based on these state tests. **Participation rates will have no impact on a school's status. The USDE is waiving the 95 percent participation rate requirement and SED has said no children should come to school just to take the tests.**

CONSEQUENCES OF OPT-OUTS

There are no consequences for students that do not take the 3-8 state tests. 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.²

There are no consequences for districts in the 2020-21 school year. The State's accountability system is placed on hold. SED has encouraged districts to consider student's social emotional needs as the highest priority during the pandemic and not to focus on high-stakes tests. The State will not withhold aid from schools or divert school improvement funds because of participation rates on the state tests. Unfortunately, some Superintendents may still feel compelled to encourage students to take the tests to improve participation rates. Especially those that have schools previously identified as low performing or that have corrective action plans because of high opt out rates in prior years.

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 Academic Intervention services (AIS). Schools must use multiple measures in making such determinations. 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 AIS 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>

¹ ESSA also requires statewide assessments in ELA and math once in high school and grade span testing in science.

² SED 2017-2018 SIRS Manual, see page 75 <http://www.p12.nysed.gov/irs/sirs/home.html>