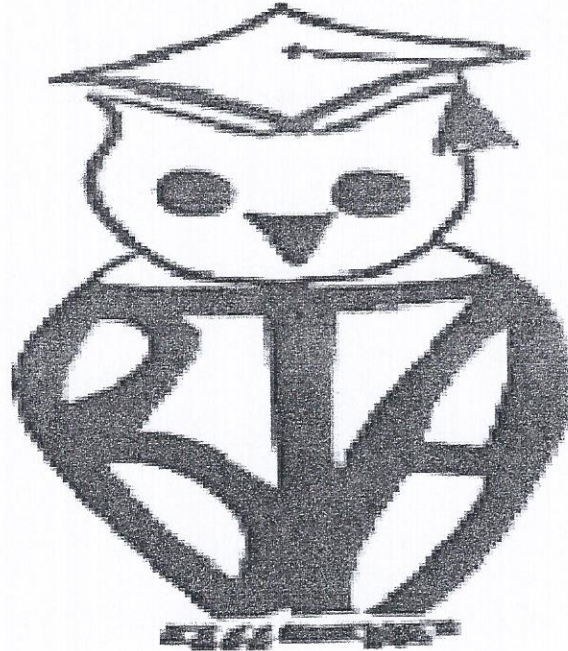


Brentwood Teachers Association



A Guide to Refusing NYS Common Core Testing for Your Own Children

The documents and information contained in this packet have been prepared exclusively for the members of the Brentwood Teachers Association and their personal use.

Resolution to Support the “The I Refuse Movement” to oppose High Stakes Testing

WHEREAS, the purpose of education is to educate a populace of critical thinkers who are capable of shaping a just and equitable society in order to lead good and purpose-filled lives, not solely prepare that populace for college and career; and

WHEREAS, instructional and curricular decisions should be in the hands of classroom professionals who understand the context and interests of their students; and

WHEREAS, the education of children should be grounded in developmentally appropriate practice; and

WHEREAS, high quality education requires adequate resources to provide a rich and varied course of instruction, individual and small group attention, and wrap-around services for students; and

WHEREAS, the state assessments are not transparent in that teachers and parents are not allowed to view the tests and item analysis will likely not be made available; and

WHEREAS, the assessment practices that accompany Common Core State Standards – including the political manipulation of test scores – are used as justification to label and close schools, fail students, and evaluate educators; therefore be it

RESOLVED that the Brentwood Teachers Association opposes standardized high stakes testing that is currently pushed by the Federal and State governments, because this testing is not being used to further instruction for children, to help children, or to support the educational needs of children; and be it further

RESOLVED, the Brentwood Teachers Association advocates for an engaged and socially relevant curriculum that is student-based and supported by research; and be it further

RESOLVED, the Brentwood Teachers Association will embark on internal discussions to educate and seek feedback from members regarding standardized high stakes testing and its impact on students; and be it further

RESOLVED, the Brentwood Teachers Association will lobby the NYS Board of Regents to eliminate the use of high stakes testing; and be it further

RESOLVED, the Brentwood Teachers Association will ask that all of its members have their own children refuse to take the Grade 3-8 assessments: and be it further

RESOLVED, the Brentwood Teachers Association will organize other members and affiliates to increase opposition to high stakes testing; and be it further

RESOLVED, that a copy of this resolution will be sent to the NY State Board of Regents, the Governor of NYS, and all members of the NYS legislative branch; and be it finally

RESOLVED, that after this resolution is passed by the Brentwood Teachers Association Executive Council, an appropriate version will be submitted to the American Federation of Teachers for consideration at the AFT July 2016 Convention and to NYSUT for consideration at the 2015 RA.

Community Education Forum Schedule



**2/24 - Christ Lutheran Church
189 Burr Rd. East Northport
7:00 pm**

**3/2 - Island Park Public Library
176 Long Beach Rd. Island Park
7:00 PM**

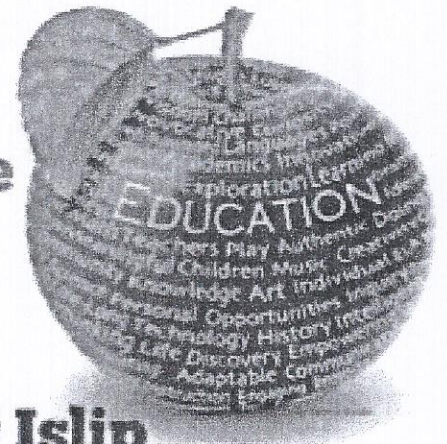
3/9 - DIANE RAVTCH AT HOFSTRA!!!

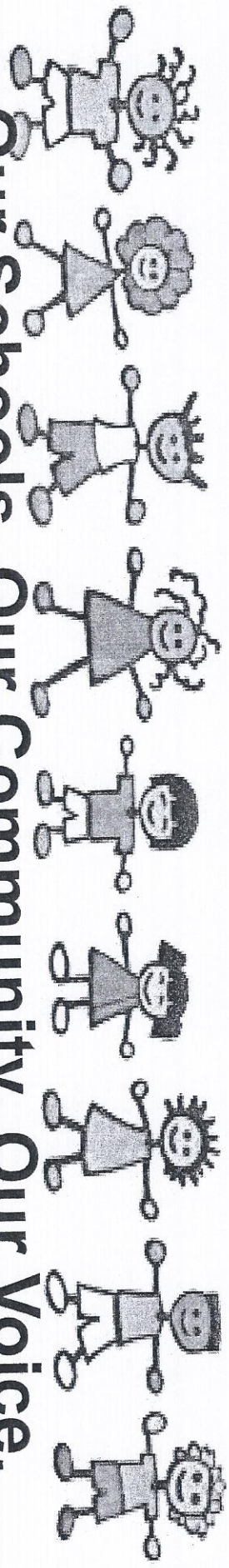
**3/16 - Levittown Hall
200 Levittown Parkway Hicksville
7:00 pm**

**3/18 - Connetquot Public Library
760 Ocean Ave Bohemia
7:00 pm**

**3/23 - East Quogue Elementary
6 Central Ave, East Quogue
6:00 pm**

**3/30 - West Islip Fire House
309 Union Boulevard, West Islip
7:00 pm**





Our Schools, Our Community, Our Voice.

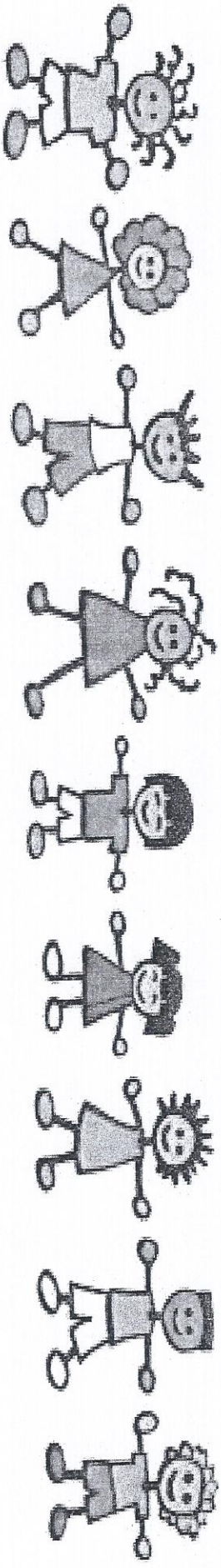
All Parents and Supporters of Public Education **MUST** attend!

Thursday, March 5th
7:00 PM – 8:30 PM
Saxton Middle School
121 Saxton Street
Patchogue, NY 11772

Educate yourself on the following:

- High-Stakes Testing and Opting Out
 - School Funding/G.E.A.
 - Loss of Local Control
 - The Governor's plans to destroy Public Education
- Please make every effort to attend.

Together we can make the necessary change!



XXXXXXXXXX Drive
Any Town, New York 11706
March 4, 2015

Mr. Administrator, Principal
Any School Elementary School
999 Yourlane Drive
Any Town, New York 11706

Dear Mr. Administrator:

Thank you for all that you do for the children and parents of (Name of your School here). We are writing to respectfully inform you that our son, (Child's Name), under our guardianship and advice, will be scored as a "refusal", with a final score of "999" and a standard achieved code of 96, on all State testing including ELA, Math and Science as described in the NYS Student Information Repository System (SIRS) Manual.

Our decision to opt (Child's Name) out of testing is not a reflection on the education that he is receiving in (Child's classroom teacher's name) or the (School District's Name). We believe that subjecting (Child's Name) to overzealous testing will cause him undue emotional harm. We also do not believe that the state exams will provide an accurate assessment of our child's abilities.

Please note that a "refusal" is not the same as "absent" as they are defined differently and scored with different standard achieved codes. Also note that in the School Administrator's Manual it is explained that "The makeup dates are to be used for administering makeup tests to students who were 'ABSENT' during the designated administration dates." (Child's Name) will specifically be scored as a "refusal", not "absent", and therefore he will continue to receive a free and appropriate public education in his regular classroom environment during the administration of all makeup test periods as this letter provides written verification of a "refusal" for all tests.

We would ask that the school please provide an alternative activity for (Child's Name) during administrative sessions of testing (not makeup tests, as our child will be in his/her regular classroom environment). If you are unable to provide an alternative activity for (Child's Name) we would ask that you please utilize the provision of the NYS Testing Program Educator Guide to the Common Core which explains "When Students Have Completed Their Tests....that student may be permitted to read silently." We are reserving the option of removing (Child's Name) from school during the test administration session depending on his anxiety level and whether or not you will be providing an alternative activity.

Thank you very much. We look forward to a great end of the school year.

Sincerely,

(Parent's Name)

(Parent's Name)

January 22, 2015

Dear Administrator,

Thank you for all that you do for our school.

I am writing to respectfully inform you that my child, *(name)*, under my guardianship and advice, will be scored as a "refusal", with a final score of "999" and a standard achieved code of 96, on all State testing including ELA, Math and Science as described in the 2014-2015 NYS Student Information Repository System (SIRS) Manual version 10.2 on page 63. Please note that a "refusal" is not the same as "absent" as they are defined differently and scored with different standard achieved codes on page 63 of the SIRS Manual. Also note that on page 27 of the 2014 Edition School Administrator's Manual it is explained that "The makeup dates are to be used for administering makeup tests to students who were 'ABSENT' during the designated administration dates." My child will specifically be scored as a "refusal", not "absent", and therefore my child will continue to receive a free and appropriate public education in his/her regular classroom environment during the administration of all makeup test periods as this letter provides written verification of a "refusal" for all tests.

I would ask that the school please provide an alternative activity for my child during administrative sessions of testing (not makeup tests, as my child will be in his/her regular classroom environment during makeup tests). However, I understand that an alternative activity is not required on the part of the school. If you are unable to provide an alternative activity for my child I would ask that you please utilize the provision of the NYS Educator Guide to the 2015 Common Core ELA (Math) Tests which, on page 9 (page 7 for Math), explains "When Students Have Completed Their Tests....that student may be permitted to read silently." I am reserving the option of removing my child from school during the test administration session depending on the emotional anxiety state of my child on the day of refusal and whether or not the school will provide an alternate activity for my child.

In addition, my child will not participate in any stand-alone field testing administered through the NYS Education Department.

Thank you very much. I look forward to a great end of the school year.

Sincerely,

Fecha: _____

Estimado _____,

Le escribo para informarle respetuosamente que mi hijo(a), _____, bajo mi tutela, se marcará como "rechazo", en todas las pruebas del Estado que incluye ELA, matemáticas y ciencia como se describe en el Sistema de Información del Estudiante 2014-2015 NYS Repositorio (SIRS) versión manual 10.1 en la página 62. Tenga en cuenta que un "rechazo" no es lo mismo que "una ausencia" ó un cero, según lo define de manera diferente y se calificó con diferentes códigos estándar alcanzado en la página 62 del Manual de SIRS.

También tenga en cuenta que en la página 27 de la edición 2014 del administrador "School Edition Manual" se indica que "Las fechas para reponer los exámenes se van a utilizar para la administración de las pruebas para los estudiantes que estaban "ausente" durante las fechas de administración designadas." Mi hijo(a) será marcado(a) como "rechazo", no como "ausente", y por lo tanto mi hijo debiera continuar recibiendo una educación pública gratuita y apropiada en su clase regular durante la administración de todos los períodos de prueba, ya que la carta ofrece por escrito un "rechazo" de todas las pruebas.

Quisiera pedirle que la escuela le proporcione una actividad alternativa a mi hijo(a) durante la administración de la prueba. Sin embargo, entiendo que una actividad alternativa no es necesaria por parte de la escuela. Si la escuela no le puede ofrecer una actividad alternativa a mi hijo(a), le ruego que por favor utilice la disposición del Estado de Nueva York Educador de los 2014 Common Core ELA (y matemáticas) en donde se especifica en la página 9 del ELA y la página 7 de matemáticas, que: "Cuando los estudiantes han completado sus pruebasa ellos se les permite leer en silencio. "Reservo la opción de sacar a mi hijo de la escuela durante la sesión de administración de la prueba dependiendo el estado de ansiedad emocional de mi hijo ó hija en caso que la escuela no le pueda ofrecer una actividad alternativa. Le agradezco su comprensión con respeto a la participación de mi hijo en los exámenes del estado de Nueva York. Esperamos trabajar junto con la escuela y mantener comunicacion abierta sobre este asunto.

Atentamente,

Nombre del padre

Guide to Refusal Policies and How to Handle Each Situation

If a school will not verbally or in writing give you their refusal policy, (some are afraid to have an actual policy spelled out, or deny that there could be any such thing) they should still be willing to give you refusal PROCEDURE.

"Refusal: Students who refuse to take the entire test must be reported at the local level with a final score of "999" and a standard achieved code of 96, indicating refusal, whether or not there are any response records. Assessment records for these students do not move to Level 2 of the Student Information Repository System. These students will be considered to have "no valid test score" and will be counted as not tested in verification reports and for accountability calculations. Students who refused to take one or more but not all sessions or parts of the test will receive no credit for the session(s) or part(s) they refused to take, and a scale score and performance level will be calculated based on the questions answered."

http://www.p12.nysed.gov/irs/sirs/2013-14/2013-14SIRSMannual9-4_20131206.pdf

Start with sending your refusal letters in (letters can be found at the end of this guide and can be used for all 3-8 math and ELA, and 4th and 8th grade science assessments). Send a copy of your letter to the principal and superintendent. The school generally will send a letter back saying "there is no provision for opting out" to cover themselves with the SED. What is important is what happens next: their refusal procedure...

1. School accepts parent refusal letter and students are taken to alternate location on testing days and allowed to read quietly. Tests are not placed in front of children. Children refusing are escorted out of testing room before tests are administered.

Response: a big fat thank you to the school for honoring parental rights and treating our children with respect. Refusal letters should be sent in as early as possible to aid the school in preparing alternate locations. A positive letter about your child's teacher can accompany the refusal letter to be put in the teacher's file. This may counteract possible negative effects of a smaller testing pool on the teacher's evaluation.

2. School accepts parent refusal letter, students are kept in the testing room and allowed to read quietly. Tests are not placed in front of the children refusing.

Response: A thank you to the school for honoring parental rights and treating our children with respect. Refusal letters should be sent in as early as possible. A positive letter about your child's teacher can accompany the refusal letter to be put in the teacher's file. This may counteract possible negative effects of a smaller testing pool on the teacher's evaluation.

3. Tests are placed in front of student and student must verbally refuse to the proctor. Students are kept in the testing room and allowed to read quietly or taken to alternate location to read.

Response: Attend district BOE meetings to work on changing policy. The goal is #1 or 2 above. You may want to get signatures on a petition to change policy and present petition at a BOE meeting. Point out that if they want students to verbally refuse in

front of other students, they have to accept "band wagon" refusals (students who hear their friends refusing and say "me too, I'm refusing!"). If the policy does not change, meet with your child's teacher before test day. Explain to the teacher in front of your child "I am not allowing Johnny to take these tests, and Johnny was worried you would be upset." We are working with teacher unions for teachers to use these opportunities to reassure the student that they are fine with the parent's decision. Coach your child to say "my mom (or dad) won't let me take this". This takes ownership of the refusal off of your child. You can also request that the school accept a note handed to the proctor instead of a verbal refusal. The note can say "I refuse" or "my child does not have permission to take this assessment". A sticky note that stated "I refuse" placed on the child's shirt was used successfully by some parents last year as well!

Student verbal refusal: there is no legal requirement for a student to verbally refuse. Any indication is allowed as of the present moment. There does not have to be any record of the type of refusal the student or parents gave.

page 63 of the SIRS manual

http://www.p12.nysed.gov/irs/sirs/2013-14/2013-14SIRSManual9-4_20131206.pdf

"Students who refuse to take the entire test must be reported at the local level with a final score of "999" and a standard achieved code of 96, indicating refusal, whether or not there are any response records."

4. School accepts parent refusal letter and students do not have to verbally refuse, however, students are kept in the testing room and denied the right to read a book. (aka "sit and stare") Students are expected to sit quietly doing nothing throughout all testing hours/days.

Response: Attend district BOE meetings to work on changing policy. The goal is #1 or 2 above. Start by sending letters (attached below). You may want to get signatures on a petition to change policy and present petition at a BOE meeting.

If policy does not change, on testing days some alternatives are:

1. Shortly after refusal, pick your child up to avoid the "sit and stare". The child cannot be given a makeup after they have successfully refused. The child can be brought back after 2 hour testing window is complete, or remain out. If they were in attendance for the morning they cannot be marked absent. Many parents formed groups last year and took turns picking up groups of children.
2. Stay absent for all 6 normal testing days. When they return to school, child refuses the test and is immediately brought back to class. If a school attempts to keep a child from normal class time for make-up sit and stare time, the school is now in a legally compromising situation as they are denying the student the "right to an education", as protected by law. It could be argued that this action would have to follow the rules of an in school suspension, which requires the child to be provided the "rights to a regular school program".

Policy on students being allowed to read after completion/refusal - page 9 of the testing

guides

<http://www.engageny.org/sites/default/files/resource/attachments/grade-3-ela-guide.pdf>

There is a similar guide for each grade 3-8. All essentially have the same language.

"Students who finish their assessment before the allotted time expires should be encouraged to go back and check their work. Once the student checks his or her work, or chooses not to, examination materials should be collected by the proctor. After a student's assessment materials are collected, that student may be permitted to read silently.* This privilege is granted at the discretion of each school. No talking is permitted and no other schoolwork is permitted."

5. Students have to verbally refuse, are kept in the testing room, and denied the right to read a book. (aka "sit and stare") Students are expected to sit quietly doing nothing throughout all testing hours/days.

Response: This is the worst of the worst cases and a complete disregard of parental and student rights as well as unfairly punitive against the very students they claim to be serving. Attend district BOE meetings to work on changing policy. The goal is #1 or 2 above. Start by sending letters (attached below)

You may want to get signatures on a petition to change policy and present petition at a BOE meeting. Point out that if they want students to verbally refuse in front of other students, they have to accept "band wagon" refusals (students who hear their friends refusing and say "me too, I'm refusing!").

If the policy does not change, meet with your child's teacher before test day. Explain to the teacher in front of your child "I am not allowing Johnny to take these tests, and Johnny was worried you would be upset." We are working with teacher unions for teachers to use these opportunities to reassure the student that they are fine with the parent's decision. Coach your child to say "my mom (or dad) won't let me take this". This takes ownership of the refusal off of your child. You can also request that the school accept a note handed to the proctor instead of a verbal refusal. The note can say "I refuse" or "my child does not have permission to take this assessment". A sticky note that stated "I refuse" placed on the child's shirt was used successfully by some parents last year as well!

If policy does not change regarding "sit and stare", on testing days some alternatives are:

1. Shortly after refusal, pick your child up to avoid the "sit and stare". The child cannot be given a makeup after they have successfully refused. The child can be brought back after 2 hour testing window is complete, or remain out. If they were in attendance for the morning they cannot be marked absent. Many parents formed groups last year and took turns picking up groups of children.

2. Stay absent for all 6 normal testing days. When they return to school, (ie. absent Tuesday, Wednesday, and Thursday of the first week of testing, and returns to normal school day Friday and refuses the makeups) the child refuses the test and is immediately brought back to class. If a school attempts to keep a child from normal class time for make-up sit and stare time, the school is now in a legally compromising situation as they are denying the student the "right to an education", as protected by law. It could be argued that this action would have to follow the rules of an in school suspension, which requires the child to be provided the "rights to a regular school program".

Student verbal refusal: there is no legal requirement for a student to verbally refuse. Any

indication is allowed as of the present moment. There does not have to be any record of the type of refusal the student or parents gave.

page 63 of the SIRS manual

http://www.p12.nysed.gov/irs/sirs/2013-14/2013-14SIRSMannual9-4_20131206.pdf

"Students who refuse to take the entire test must be reported at the local level with a final score of "999" and a standard achieved code of 96, indicating refusal, whether or not there are any response records."

Policy on students being allowed to read after completion/refusal - page 9 of the testing guides

<http://www.engageny.org/sites/default/files/resource/attachments/grade-3-ela-guide.pdf>

There is a similar guide for each grade 3-8. All essentially have the same language.

"Students who finish their assessment before the allotted time expires should be encouraged to go back and check their work. Once the student checks his or her work, or chooses not to, examination materials should be collected by the proctor. After a student's assessment materials are collected, that student may be permitted to read silently.* This privilege is granted at the discretion of each school. No talking is permitted and no other schoolwork is permitted."

LETTERS REQUESTING POLICY CHANGE

Letter to "sit and stare" districts

Dear (BOE and Superintendent),

I am writing to you on behalf of several parents who are choosing to have their children refuse the upcoming state assessments. I'm asking that you please allow these students to sit in the back of the room or a separate location and read silently once they have refused these tests. The Educator's Guide to Common Core Test states "Students who finish their assessment before the allotted time expires should be encouraged to go back and check their work. Once the student checks his or her work, or chooses not to, examination materials should be collected by the proctor. After a student's assessment materials are collected, that student may be permitted to read silently." The New York State Education Department was in fact contacted by numerous administrators and parents, and they have stated, "This is strictly a district decision. Allowing a child who refuses to read is granted at the discretion of each school". I ask that you please grant children who are refusing to be allowed to read silently. Having a child sit and do nothing for such a long period of time is unrealistic -and cruel, and some students might become disruptive and a distraction to students who are taking the tests. Parents who are granting permission for their child to take these assessments are also concerned about the distraction caused by students in their child's class who are expected to sit quietly with no reading material, disrupting those taking the assessments. I am aware of many other districts across Long Island who are permitting students who refuse to either read

in class or a separate location, or go down to lower grade classrooms and read to younger students. We in fact are one of only 18 districts choosing to punish children for their parents decision to refuse.

I look forward to your response and I am confident that you will make a decision based on what is best for the children.

Thank You,

Letter to a district that is being extremely uncooperative

(intends to force the child to verbally refuse, uses sit and stare, and contends that they will present the test more than once to the child)

Dear Superintendent _____:

I have received your letter regarding my family's decision to refuse participation in all standardized tests/assessments being given this school year, including but not limited to the ELA, math, and/or any local assessments used, in whatever manner, to evaluate my child and/or her teachers.

You (the district) are asserting that "[t]here is not [sic] an option" to opt out. To the contrary; there is: it's called The Constitution of the United States, and it provides that option (in no particular order of importance) on 14th Amendment substantive due process grounds (i.e., my right to nurture, raise, and direct the education of my child, my right and my child's right to personal liberty, my right to protect my child from harm and for my child to be free from harm, and my right and my child's right against unreasonable governmental intrusion), First Amendment privacy grounds, my child's right against Fourth Amendment unreasonable governmental action, and Fifth Amendment rights. In addition, the Ninth Amendment recognizes that there are fundamental personal rights that are protected from abridgment by the government even though not specifically mentioned in the Constitution. Federal statutes also come into play. No Child Left Behind expressly provides: "Parents have the primary responsibility for the education of their children, and States . . . have the primary responsibility for the supporting that parental role." 20 U.S.C. § 3401. Similarly, the federal government has declared that I must be afforded "substantial and meaningful opportunities to participate in the education of [my child]." 20 USC § 6301 (12).

Indeed, my right to refuse to allow the state to compel my child to submit to a standardized test (or assessment) has constitutional dimensions that have been recognized by the Supreme Court of the United States for nearly 100 years. My constitutional right to guide my child's education and to protect my child from harm and exploitation at the hands of government is one of the oldest fundamental liberty interests recognized by that Court. The Court has repeatedly held that because I have the natural inclination to further the best interests of my child, it is I who is the best protector of my child and, therefore, I have the natural right and duty to care for my child and protect her against unreasonable, arbitrary, and capricious governmental action. It is I -- the parent -- not the school district -- who is entrusted with this constitutionally-protected, fundamental right. The Court is emphatic that the State (the school district) has no right to interfere with or hinder my efforts to raise my child, or my efforts -- my affirmative obligation -- to protect my child from harm or exploitation. See e.g. 20 U.S.C. § 6311 (based on the specific requirements outlined in No Child Left

Behind, high-stakes testing violates federal law). The Court has stated: “[t]he fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children [(my child)].... The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.” *Pierce v. Society of Sisters*, 268 U.S. 510 (1925). My child is not “[t]he mere creature of the state.” As the Supreme Court has similarly held: “the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.” *Prince v. Commonwealth of Massachusetts*, 321 U.S. 158 (1944). I have a constitutional liberty interest to direct the upbringing and education of my child. This right, guaranteed by the Constitution, may not be abridged by unreasonable policy. Even the New York Court of Appeals – the highest court of our state – recognizes this interest. The Court of Appeals stated: “It is the natural right, as well as the legal duty, of a parent to care for, control and protect his child from potential harm, whatever the source and absent a clear showing of misfeasance, abuse or neglect, courts should not interfere with that delicate responsibility.” *Roe v. Doe*, 29 NY2d 188 (NY 1971) (emphasis added). Neither should any branch of government. These constitutional, statutory, and common law guarantees do not disappear when my child enters your schoolhouse gate. In fact, the federal government has explicitly provided protection to my child within the school environment. See 20 U.S.C. § 1232h (protecting students from examinations without written parental consent).

To reiterate: the _____ School District does not have my permission to compel my child to take any state / district standardized test or assessment. See 20 U.S.C. § 1232h. Under my guardianship, my minor child will refuse same. In addition, her various tests /assessments will be properly scored as a “refusal,” will be considered “invalid,” and will not be included in the participation rate. See 8 NYCRR § 100.2(p)(1)(xi). New York State Education Department manuals provide explicit instructions on proper coding. These instructions are not discretionary. Your district does not have authority to deviate from them. They require that a “refusal” – along with “administrative error” and “medically excused” – has its own administrative code; it does not get scored as a “0,” “1,” or “2.” Moreover, as with “administrative error” or “medically excused,” a refusal is not deemed a valid score. Any attempt by your school district to otherwise code, score, or deviate from these instructions would constitute a due process violation of governmental procedure. Furthermore, during the administration of any and all make-up tests, my child will continue to receive a free and appropriate public education in her regular classroom environment, along side the rest of her classmates. You are hereby on notice that any state agent who ignores my parental instruction, and/or who compels, harasses, intimidates, or otherwise forces my minor child, or attempts same, in any way, to participate in any standardized test or assessment, and/or who takes any action that causes my child emotional, psychic, and/or physical harm against these express instructions, will be in violation of federal and state constitutional law, statutory law, and common law. I trust there will be no further need for clarification.

Thank you for your cooperation,

XXXXXXXXXXXXXXXXXX

Refusal letters grades 3-8 math and ELA

Dear (name of administrator)

We are writing today to formally inform the district of our decision to refuse to allow our child (name) , to participate in the ELA and math standardized assessments imposed on children across the state for the 2013-2014 school year. Our refusal should in no way reflect on the teachers, administration, or school board. This was not an easy decision for us, but we feel that we have no other choice. We simply see these tests as harmful, expensive, and a waste of time and valuable resources.

We refuse to allow any data to be used for purposes other than the individual teacher's own formative or cumulative assessment. We are opposed to assessments whose data is used to determine school ranking, teacher effectiveness, state or federal longitudinal studies or any other purpose other than for the individual classroom teacher's own use to improve his or her instruction.

We will be encouraging other parents to stand up against the testing fad and, more importantly, the corporate and government takeover of our schools. We believe in and trust our highly qualified and dedicated teachers and administrators. We believe in the high quality of teaching and learning that occur in our child's school. We hope our efforts will be understood in the context in which they are intended: to support the quality of instruction promoted by the school, and to advocate for what is best for all children. Our schools will not suffer when these tests are finally gone, they will flourish.

(Name of School District) should have a unified policy in place to address children who are refusing these state assessments.

We do apologize in advance for the inconvenience or scrutiny that this decision may cause the administration, the school, and staff.

Sincerely,
(your name)

Refusal Letter for Grades 3-8 math and ELA and 4th and 8th grade science

Dear (name of administrator)

We are writing today to formally inform the district of our decision to refuse to allow our child (name) , to participate in the ELA, math, and science, standardized assessments imposed on children across the state for the 2013-2014 school year. Our refusal should in no way reflect on the teachers, administration, or school board. This was not an easy decision for us, but we feel that we have no other choice. We simply see these tests as harmful, expensive, and a waste of time and valuable resources.

We refuse to allow any data to be used for purposes other than the individual teacher's own formative or cumulative assessment. We are opposed to assessments whose data is used to determine school ranking, teacher effectiveness, state or federal longitudinal studies or any other purpose other than for the individual classroom teacher's own use to improve his or her

instruction.

We will be encouraging other parents to stand up against the testing fad and, more importantly, the corporate and government takeover of our schools. We believe in and trust our highly qualified and dedicated teachers and administrators. We believe in the high quality of teaching and learning that occur in our child's school. We hope our efforts will be understood in the context in which they are intended: to support the quality of instruction promoted by the school, and to advocate for what is best for all children. Our schools will not suffer when these tests are finally gone, they will flourish.

(Name of School District) should have a unified policy in place to address children who are refusing these state assessments.

We do apologize in advance for the inconvenience or scrutiny that this decision may cause the administration, the school, and staff.

Sincerely,
(your name)

Refusal Letter for all assessments grades 3-8 to a district with refusal policy #3-5 above

Dear Administrator,

Thank you for all that you do for our school.

I am writing to respectfully inform you that my child, (name), under my guardianship and advice, will be scored as a "refusal", with a final score of "999" and a standard achieved code of 96, on all State testing including ELA, Math and Science as described in the 2013-2014 NYS Student Information Repository System (SIRS) Manual version 9.4 on page 63. Please note that a "refusal" is not the same as "absent" as they are defined differently and scored with different standard achieved codes on page 63 of the SIRS Manual. Also note that on page 25 of the 2013 Edition School Administrator's Manual it is explained that "The makeup dates are to be used for administering makeup tests to students who were 'ABSENT' during the designated administration dates." My child will specifically be scored as a "refusal", not "absent", and therefore my child will continue to receive a free and appropriate public education in his/her regular classroom environment during the administration of all makeup test periods. This letter provides written verification of a "refusal" for all tests as there is no legal requirement for a student to verbally refuse. Any indication is allowed as of the present moment as stated on page 63 of the 2013-2014 SIRS manual that "students who refuse to take the entire test must be reported at the local level with a final score of "999" and a standard achieved code of 96, indicating refusal, **whether or not there are any response records.**"

I would ask that the school please provide an alternative activity for my child during administrative sessions of testing (not makeup tests, as my child will be in his/her regular

classroom environment during makeup tests). However, I understand that an alternative activity is not required on the part of the school. If you are unable to provide an alternative activity for my child I would ask that you please utilize the provision of the NYS Educator Guide to the 2014 Common Core ELA (Math) Tests which, on page 9 (page 7 for Math), explains "When Students Have Completed Their Tests... that student may be permitted to read silently." I am reserving the option of removing my child from school during the test administration session depending on the emotional anxiety state of my child on the day of refusal and whether or not the school will provide an alternate activity for my child.

Thank you very much. I look forward to a great end of the school year.

Sincerely,

OPT-OUT OF STATE TESTS



Fact Sheet No: 15-01

January 2015

Parents and teachers share deep concerns about over-testing resulting from the state's botched implementation of the Common Core Learning Standards (CCLS). Concerns include: stress on students, appropriateness of tests, erosion of learning time and lack of state transparency on 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 that is growing nationally and in New York state. NYSUT fully supports parents' right to choose what is best for their children— including NYSUT members who decide as parents to opt their child out of state tests. In addition, NYSUT encourages members to exercise their rights as professionals to speak out against the harmful effects of high-stakes tests — and will vigorously defend members if a district brings disciplinary charges in that event.

The State Education Department (SED), which has a vested interest in ensuring students take the assessments, claims there is no provision in state law that allows students to "Opt-Out" and has provided little guidance to districts. Some school districts have provided parents with inaccurate information on the consequences of opting out. This NYSUT 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.

ADVICE FOR LOCAL LEADERS

We recognize that many members have strong feelings about this issue. Teachers are trying to reconcile their own roles as public school educators, private citizens and as parents too. As an organization, NYSUT has been clear that students should not be subjected to over-testing or burdened with field tests that are conducted for the main purpose of benefitting test makers. We are on record supporting districts that choose to opt out of field tests. NYSUT fully supports a parents' right to choose what is best for their child – including parents who are teachers. Additional action is recommended at the local level.

- Members should feel comfortable in exercising their right to speak out against the overemphasis and misuse of standardized tests.
- NYSUT will defend teachers against disciplinary action if a district pursues 3020-a charges.
- Students should not be subject to harmful "sit and stare" policies. Encourage the district to work with stakeholders to develop appropriate policies for students who choose to opt out.
- Ensure that there are processes in place to track students who refuse part of an assessment and teachers of these students are notified.

STATE ACCOUNTABILITY – GRADES 3-8 ELA AND MATH ASSESSMENTS

The state assessments are required by Federal law and were originally intended to evaluate district programs. ESEA section 1111(b)(2)(E)-(H) requires each state to establish annual measurable objectives (AMOs) for determining adequate yearly progress (AYP) to ensure that all students meet or exceed the State's proficient level of academic achievement on the State's assessments in English language arts (ELA) and mathematics by no later than the end of the 2013–2014 school year. The ESEA Waiver allows states the flexibility to develop new AMOs based on growth targets that are no longer subject to that timeframe. The Waiver does not provide flexibility around the required assessments.

- State assessments must be used and there must be a state-approved methodology for determining student growth. ESEA section 1111(b)(3) requires measuring the proficiency of students in each of grades three through eight in, at a minimum, mathematics, and reading or language arts, and to measure the proficiency of all students in science not less than one time during grades three through five; six through nine; and grades 10 through 12.
- Districts and schools must meet both participation and performance criteria to make AYP. To meet the participation criterion, districts/schools must have at least 95 percent of students tested in each accountability group with 40 or more students (ESEA section 1111(b)(2)(I)(ii)).

POTENTIAL CONSEQUENCES OF OPTING-OUT FOR DISTRICTS

According to the NYS approved ESEA Waiver, without 95 percent participation, schools would not be able to meet AYP. Districts may calculate a “weighted average” of the group's participation rates using the current and the previous year. If the result meets the participation criterion for the measure, the group is considered to have met the participation criterion.¹ A district that does not meet the participation requirements may be required to develop an improvement plan for increased participation. For those with Focus or Priority schools, there may be other penalties.

- **The failure to meet the 95 percent participation requirement has no impact on a district's state aid. SED is not authorized to withhold state aid based on assessments participation.**
- SED has used the ESEA Waiver to merge and align the state's accountability system. The lowest performing five percent of schools in the state were identified as “Priority” and ten percent of districts as “Focus” districts/schools. Focus and Priority schools that do not meet the participation rate requirement will not be able to meet the exit criteria (assuming they would otherwise be able to.) Part 100 regulations, gives the commissioner authority to place under registration review (increasing state oversight) any school in which excessive percentages of students fail to fully participate in the State assessment program.
- Districts may need to adhere to “set-aside” rules for Title I funds. This funding is not lost but 5-15 percent may need to be re-allocated.
- In the schools in which one or more subgroups fail to meet the 95 participation rate in ELA and Math or 80 percent participation in science for three consecutive years, SED will require that a Local Assistance Plan (LAP) be developed to address student nonparticipation in assessments. How SED would compel parents who are boycotting the state assessments is unknown.
- Non-Title I districts/Schools are held to the same participation requirements.

¹ Chapter 6 of the SIRS Manual (p 212 of Version 9.10) - <http://www.p12.nysed.gov/irs/sirs/>

POTENTIAL CONSEQUENCES FOR STUDENTS

At this point, the assessments have limited academic consequences for students. 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. However, actions by the state Legislature and Board of Regents have minimized how the assessments can be used.

- The 2014-15 state budget enacted laws that prohibit including the results of the grades three through eight ELA and mathematics assessments on a student's permanent record until December 31, 2018.
 - Districts must notify parents that test results are not included in their student's permanent record but are being used for diagnostic purposes.
 - Results may be used for promotion or placement decisions only if used as one of multiple measures and is not the primary factor.
 - Districts must notify parents annually how placement decisions are made and how the policy was developed.
- The ability for districts to use the results for remediation was further reduced by action of the Regents. Historically, students who performed below Level 3 (proficiency) would receive Academic Intervention Services (AIS). With the roll-out of the Common Core Learning Standards (CCLS), the SED anticipated student scores would drop and chose to provide flexibility to school districts to determine what services, if any, would be provided to students for the 2013-14 and 2014-15 school years for those students.²

Although SED claims there is no provision for students to opt out, **there is a mechanism in place for tracking students who refuse to take the entire test.** Districts use a code that indicates refusal. Assessment records for these students do not move to Level 2 of the Student Information Repository System. These students will be considered to have "no valid test score" and will be counted as not tested in verification reports and for accountability calculations. Partial results continue to be reported.

The SED has informed districts that schools do not have any obligation to provide an alternative location or activities for individual students while the tests are being administered. This has created a dilemma for districts, which have responded in varied ways.³ Some will allow students to read, others provide an alternative activity. **Unfortunately, some have implemented "sit and stare" policies that are punitive and harmful to students. NYSUT is on record in opposing the use of "sit and stare" policies.**

POTENTIAL CONSEQUENCES FOR TEACHERS

APPR and the State Growth Model

At the state level, large numbers of students opting out has the potential to increase the volatility of the model, particularly in subgroups with smaller numbers of students. This is something NYSUT will be looking at closely and asking our external experts to review as the technical reports are made available.

² Regents Action 9/8/2014, Amendment of Section 100.2(ee) of the Commissioner's Regulations, relating to Academic Intervention Services (AIS)

³ SED Field Memo, Information on Student Participation in State Assessments, Steven E. Katz, January 2013

At the individual teacher level, it is impossible to determine the impact on the teacher. There is an expectation that higher-achieving students are more likely to opt-out. That has not been the experience in every district, but if that is the case, it still does not necessarily harm the teacher's growth score. The model is based on a relative scale - how each student in a teacher's classroom compares to other students that scored the same in prior years (up to 3 years history, also taking into account ELL, SWD, poverty) with the results averaged and then compared to all other teachers. In this model, high-achieving students can earn a teacher a low growth score if they didn't do as well this year as the average of their peer group, even if they are a level 3 or 4. Low-achieving students can earn a teacher a positive growth score, even if the student's results are below proficiency, if they did better than their peers.

It is possible that if too many students opt-out, a teacher will not get a growth score. A teacher needs a minimum of eight students with *both* pre- and post- assessments (a total of 16 scores) assigned to the teacher for at least 60% of the year. SED has suggested that districts create Student Learning Objectives (SLOs) for teachers that may not have enough students. If an SLO is not created at the beginning of the year, NYSUT's position is that it is inappropriate to give a teacher an SLO or group measure after the fact. Those teachers should not have a sub-component score for growth and therefore, no composite score. Locals that use group measures that have large numbers of students opting out should also expect more volatility from year-to-year.

Another related issue is with students who did take part of the test but refused some sessions or parts of the assessments. Those students will get a score based on the questions answered and the results will be included in a teacher's state-provided growth score. This is also a factor for principals, where there may be a cumulative effect. The district should keep a record of these students and any teacher with an ineffective/developing rating should be able to use that as evidence in an appeal.

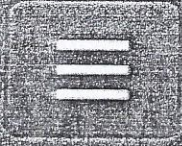
What to do if You or one of Your Members Faces Disciplinary Action

Locals and individual union members who advise parents or students to opt out of state tests may face risks.

- A teacher who, in conversations with students or parents, takes a position on testing contrary to the school district's educational program may potentially be subject to disciplinary action, e.g. charges of misconduct or insubordination. The Supreme Court has held that **when a public employee speaks in his/her capacity as an employee, the speech is not constitutionally protected.**
- However, because standardized testing is a matter of public concern, a local speaking as a union, or an individual member speaking as a parent or citizen, about educational concerns over standardized testing, for instance, in a letter to the editor or in a statement to the Board of Education, is protected by the U.S. Constitution at least so long as they are not encouraging other parents or students to opt out from a test.
- Members' questions about particular statements or actions regarding opting-out should be referred to the LRS.

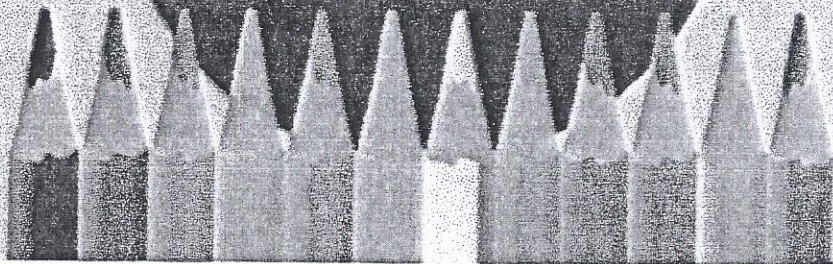
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REFUSE THE TEST