

# Taking Back Our Schools:

## Parents Guide to Refusing the New York State Assessments

We must release the strangling hold that politicians and Corporations have on our public education system.

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Disclaimer: This information was compiled in an effort to support parents, students and teachers in New York public schools who choose to refuse and is not intended as legal advice.

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# Reasons Why Standardized Testing is Damaging

1. Standardized Testing takes away approximately 25% of our children's academic school year.
2. Standardized Testing gives teachers incentives and forces teachers to "teach to the test" instead of nurturing higher order thinking skills.
3. Standardized Testing teaches children that there is only one right answer in academics and in life.
4. Standardized Testing costs millions of dollars of taxpayer money to produce and thousands of dollars of our school district's money to implement.
5. Standardized Testing encourages our best teachers to seek other careers where their expertise is valued.
6. Standardized Testing is developmentally destructive for specific age groups.
7. Standardized Testing is creating corruption among schools where school districts are cheating on test scoring.
8. Standardized Testing is creating corruption among students where students are purposely scoring poorly to negatively affect teachers that they don't like.
9. Standardized Testing gives teachers incentive to care more about their teacher evaluation than they do about children
10. Standardized Testing uses our children as tools to evaluate school districts, schools, and teachers. Students do not even get a chance to learn from their mistakes. In fact, they never see the test after they take it.

## Why are parents having their children refuse to participate in standardized testing this year?

“Last fall I heard about SLO tests, and when I started learning about them I thought it was the dumbest solution to accountability ever. Then I asked a few questions and learned that the State tests are also used to evaluate teachers and schools. Then I did a little math, added up how tests are administered and said "this has to stop". I was in the dark, blind to the whole mess, which is why it is so important for us to just educate parents about the problem.” **Eric L. Mihelbergel Parent of a 2<sup>nd</sup> and 5<sup>th</sup> grader**

“ I have always felt like standardized tests were flawed, but as a parent of a 5 year old I am particularly concerned about the amount of testing we are forcing on our young children. Research shows that testing young children is highly unreliable and most specialists in the field of early childhood education do not condone the practice. We have opted-out of all forms of assessment that aren't for the sole use of the classroom teacher, who I feel is the most skilled to be able to judge my son's progress. We aren't facing high-stakes tests this year, but we are committed to boycotting them in the future as well. People often wonder why we are so worried already. We don't want our children's education dominated by meaningless assessments, and we want them to grow up with a sense of normalcy when it comes to questioning the value of these tests and saying 'no thank you!'” **Danielle Boudet Parent of a preschooler**

“Standardized testing is an inaccurate way to measure learning and determine success in any content area. The new state mandates especially the common core state standards are depriving my children of a meaningful education and deterring them away from developing a love for learning. The amount of testing and assessments forced upon children is excessive and that excessive amount of testing is being used by NYSED to determine if a teacher is effective or not. I can't stay silent and do nothing while these unjustly abusive mandates and policies are setting up our children and our schools for failure. I'm not okay with corporations and politicians taking advantage of students and teachers.”

**Sara Wottawa Parent of a Kindergarten and 2<sup>nd</sup> grader**

“ I've seen firsthand my child go from loving learning to being worried, anxious and stressed about these tests. These tests...which have no real bearing on her future...these tests...which take up months of test prep time instead of teaching time...these tests...which are making corporations VERY rich and children very stressed...these tests...which are being used to grade teachers who got into teaching to make a difference, not make children miserable.”

**Parent of a 1<sup>st</sup> and 4<sup>th</sup> grader**

“We simply feel our children are spending way more time testing with no benefit to them. We want them to spend more time learning over testing, practice tests, and all the other assessments they endure. They've lost all time associated with projects and hands on learning.”

**Ricki Braun Marin Parent of a 3<sup>rd</sup> and 5<sup>th</sup> grader**

## What You Need to Know About Refusing NYS Assessments

A child can refuse any NYS assessment by pushing away their exam. Your child should prepare a note stating, "I refuse all state tests" and bring it to school on each day tests are administered. They should not be given a makeup exam. Make-ups are only for students who are absent according to the [School Administrator's Manual p.25](#). If you keep your child home for the days of the test, they will be given a makeup exam any time during the testing window and the specified testing makeup days. View the [NYS testing schedule](#) for specific dates. If a child refuses to take the exam, they will not receive a grade or score of zero. Their exam will be coded "999" which is the code for "refusal." They will be considered to have "no valid test score".

NYS Assessments are **NOT** used to determine services for special education. Special education students **WILL NOT** lose services if they refuse NYS assessments.

Refusing to take a NYS exam **may** impact your child's access to accelerated programs. However, no one measure should account for a child's access to an instructional program and this is something that can and should be discussed further with your child's school district.

## Frequently Asked Questions About Refusing the NYS Assessments

### **Q. What is the difference between "refusing" and "opting-out"?**

**A.** There is no provision for opting-out of NYS assessments but Students can refuse to take NYS assessments. The difference between opting out and refusing is the language and students have to refuse rather than their parents opting them out. However, parents can write and submit a refusal letter to their school district on behalf of their child. Many parents have successfully submitted refusal letters. Many districts have accepted parents refusal letters. It has been recommended that you send your child in with a note the day of testing that states, "I refuse all NYS Assessments."

### **Q. Should my child write "refuse" on the test?**

**A.** No your child should not write anything on the test. Most districts have pre-printed labels on the test so the child does not have to write their name on it. Most districts, principals, and teachers seem to agree that If anything is written on the test it could be scored as "zero" instead of "999". The consensus seems to be that the child should just push the test away and write nothing, but double check with your principal.

### **Q. Is my child allowed to read once they refuse the test?**

**A.** You must discuss this with your individual school. Schools are not required to allow your child to read once they have refused the test. Some schools are allowing children to read once they refuse the test, and other schools are willing to even provide another room or activity for them. It is best to keep a friendly, open communication with the principal and work with him/her to create an acceptable environment for your child. If all else fails, you reserve the right to remove the child from the test once they have refused. You should try to work with the school first.

### **Q. Will refusing NYS assessments prevent promotion to the next grade?**

**A.** No. Students cannot be held back if they refuse state tests (except for Regents exams). **Note\* NYC schools have different Provisions**

## The 95% Participation Rate and How It Does NOT Affect Funding

A school district does NOT lose funding if there is less than 95% participation on state tests.

Let us look at the details:

- 1.) All Districts/Schools – It is true that NCLB dictates that all districts/schools must have at least 95% participation on state tests in order to meet Adequate Yearly Progress (AYP). According to NCLB, any district/school that does not reach the 95% participation is considered a district/school that “failed to make AYP”. They must bear this label.
  
- 2.) Non-Title I Districts/Schools – Non-Title I districts/schools that have less than 95% participation on state tests must wear the dunce-cap that says “failed to make AYP”, and they may need to compose a written plan for improvement. However, there is NO impact on funding. Here is a 2012 link that shows which schools are Title I: <http://www2.ed.gov/about/overview/budget/titlei/fy12/newyork.pdf>
  
- 3.) Focus Districts/Schools - At the end of the 2011-12 school year, NY sunset the accountability continuum of districts/schools in improvement, corrective action, and restructuring status based on failure to make AYP. Instead, at the end of the 2011-12 school year five percent of districts/schools in the state were identified as “Priority” and ten percent as “Focus” districts/schools. As part of the ESEA Flexibility Waiver that NYS received from President Obama (which continues through the end of the 2014-15 school year), no new districts/schools will be identified as “Focus Districts/Schools” after the end of the 2011-12 school year. Those districts/schools that are currently listed as “Focus Districts/Schools” can have that label removed if they complete certain requirements and meet AYP. This link gives more details: <http://usny.nysed.gov/docs/10-things-to-know-about-the-esea-waiver.pdf>
  
- 4.) Focus District/School, AND Title I – Any district/school that is a focus district/school and also Title I, must set-aside 5-15% of Title I & II money that they have received into a separate set-aside account. **The money is NOT taken away from them.** This is Title I & II money that has already been given to them, and they must set-aside 5-15%. Please note that the 95% participation rate has not yet been brought into the discussion at this point. The discussion at this point includes ALL districts/schools that are currently listed as “Focus Districts/Schools” and are also Title I. This link gives more details: <http://usny.nysed.gov/docs/10-things-to-know-about-the-esea-waiver.pdf>

## Refusing State Assessments and Accountability

The U.S. Education Department granted New York State a ESEA waiver from the specific provisions of No Child Left Behind. In exchange, NY agreed to set higher standards, provide a rigorous curriculum aligned with the “Common Core” standards, and look at student growth and graduation rates in addition to test scores as a way to measure school performance.

New York was required to identify all schools as either “Priority Schools”, “Focus Schools”\* or schools “in good standing”. Most schools on Long Island are “in good standing”. The designation of “in good standing” CAN’T BE CHANGED until the 2015-16 school year – regardless of test scores and student participation.

This has been a big issue for some parents – if your school is in good standing and doesn’t make AYP for 3 consecutive years, the school is still NOT identified in any negative way during those 3 years! They still continue to be “in good standing”. NO plan has to be put in place, NO funding is affected at all. The school simply reports their progress to the state, as they’ve always done.

Schools that are “Priority” or “Focus” schools have to implement an improvement plan and/or whole school reform. For more information view the Engage NY memo.

If your school is “in good standing”, your school has “immunity” from making “Adequate Yearly Progress” (AYP) until the 2015-16 school year IT DOESN’T MATTER HOW MANY KIDS TAKE OR DO NOT TAKE THE ASSESSMENT TESTS! There is NO consequence for less than 95% participation on state tests, or for low scores.

**Q. If students do not take the summative assessment for any reason (they refuse to take the assessment, they were absent, they moved), do they still count ?**

**A.** If a student moves and is no longer on the classroom roster, then the student does not count towards the final rating for any growth or local measures, and should also not be included in the targets for any SLOs. Districts must make their own decisions as to whether students who are absent may re-take summative assessments. All students who are on the classroom roster for the course/section must, however, be included in the SLO and the final, summative rating.

## Student Learning Objective

“A Student Learning Objective is an academic goal for a teacher’s students that is set at the start of a course” according to NYSED’s EngageNY website.

Depending on grade level and scheduled special area subjects, your child may take an [SLO pre-test](#) very early in the school year. Teachers that do not have a state assessment (3-8 or Regents) may have to give an SLO test early in the school year or semester. The SLO process has been confusing for schools and each district may chose different methods to implement SLOs.

**Rating teachers without a state assessment tied to their course/grade level may be accomplished using these methods to get the mandated state 20% of their evaluation:**

1. **\*SLO pre-test.** Given very early in the school year or semester(for half-year secondary courses)
2. **Teacher uses “historical data”.** Educators may use past state assessment scores, final exam numbers, or previous grades to [determine an academic goal](#) for the year. This method does allow for less testing of your child.
3. **School-wide use of ELA scores.** Some teacher APPR evaluation agreements will use the ELA State Assessment scores as the 20% for teachers without state assessments tied to their course. This does reduce amount of testing for our children.

**Which method(s) does your child’s school use? Contact teachers and principals to find out. Most districts have their APPR teacher evaluation agreements posted on their websites, but the documents are lengthy and complex.**

### Other types of standardized testing.

There are other standardized tests that your children may take that your child’s teacher is forced to administer. These could be used for teacher evaluation or progress monitoring. These mandated assessments take away more instruction and add to the amount of time lost to testing.

- STAR, SRI, I-Ready, AIMSweb, NWEA, Terra Nova and DIBELS.
- [Here is a complete list of assessments](#) that may be used for the evaluation of teachers/principals.

If you plan to opt out your child from all mandated testing I would suggest a blanket statement such as “any assessment used to evaluate a teacher”. Parents are the key to ending the over-testing of our children. If we take action: boycotts, letters to editor, speaking at PTA meetings, and contacting our elected leaders we can save our children’s education.

**\*If your child’s teacher(s) will be use a SLO test for evaluation is it important to boycott the pre-test. For students at upper levels, especially high and middle school, the post-exam could be used as a final exam so boycotting the end of year assessment will be more difficult. If we refuse the pre-test, a student who takes the post-test will not be part of evaluating their teacher.**

## Teacher or District Accountability

A student who refuses state mandated test will receive a final score of "999" and a standard achieved code of 96, indicating refusal. Students who receive a standard achievement code of 96 do not move to Level 2 of the Student Information Repository System. It also states on page 194 in the Student Information Repository System (SIRS) Manual Reporting Data for the 2012–13 School Year Codes 96 "Refused to take the test" and 99 "Absent" are not accepted into the Level 1 Container for migration to Level 2.

What is The Level 2 Repository?

The Level 2 Repository is a single statewide data warehouse, where all required student data from Level 1 are combined. Level 2 provides data for many purposes including, but not limited to, developing The New York State School Report Card, determining the accountability status of public and charter schools and districts, linking student data with those of teachers and principals, meeting federal reporting requirements, informing policy decisions, and meeting other State needs for individual student data. Standard aggregations of data from the Level 2 Repository are placed in the Annual Reporting Database to provide the general public with access to school performance data.

Based on this information students refusals would have no impact on teacher or district accountability because they are not moved to the level 2 Repository.

Based on this information students refusals would have **NO** impact on teacher or district accountability because they are not moved to the level 2 Repository.

## **Academic Intervention Services (AIS)**

Districts must adopt or approve a written procedure for identifying students for academic intervention services in those grades K-12 where there are no State assessments in English language arts or mathematics and in those grades 4-12 where there are no State assessments in social studies or science. This procedure shall apply across the district to all schools and students at the same grade level.

Districts should assure that multiple assessments/sources of evidence are used and that criteria are in place that determine the identification of performance on those measures/sources of evidence that would place a student at risk of not meeting State learning standards and in need of academic intervention services; and Performance that indicates that a student is meeting, or is likely to meet, State learning standards and no longer in need of academic intervention services.

The multiple assessments/sources of evidence should measure student accomplishment of core curricula for the elementary, middle, and high school levels in those standards areas requiring AIS.

Such assessments are not limited to, but may include:

- Developmentally-appropriate measures such as: Diagnostic assessments, early reading assessments/literacy profiles, assessment portfolios performances/demonstrations; and/or assessments of content skills, concepts, and knowledge.
- Tests of demonstrated technical quality such as: Standardized, norm-referenced tests (above grade three), standardized, criterion-referenced tests; other commercially-prepared assessments; and/or other measures that meet the standards contained in Standards for Educational and psychological Testing (American Psychological Association).
- Sources of evidence are not limited to, but may include review of classroom performance ( i.e., participation, student work/portfolios, homework completion) report card grades; and/or student records.
- Recommendations from teachers, administrators, counselors, other school staff, and parents. Districts may also adopt or approve the procedure in grades where there are State assessments, particularly to assist in determining the level of intensity needed for services.

[For AIS Source Click Here](#)

## Frequently Asked Questions About AIS

**Q. How does a district determine which students are eligible for academic intervention services?**

**A.** *Students who score below the designated performance levels on elementary, intermediate, and commencement-level State assessments in English language arts, mathematics, social studies, and science. Students at risk of not meeting State standards as indicated through the district-adopted or district approved procedure, including those K-3 students who lack reading readiness.*

**Q. If a student does not have a state assessment score or is absent for part or all of a state assessment how should a school district determine eligibility for AIS?**

**A.** *If a student is absent for all or part of a State assessment, no score is provided to the district. In such cases where a student has no State assessment score, the district should, as soon as possible, follow the district-adopted or district-approved procedure for identifying students at risk of not meeting State learning standards.*

**Q. What is a district's responsibility if a parent objects to having his/her child receive academic intervention services?**

**A.** *The district should, in a timely manner, listen to parental concerns, share evidence of the student's need for academic intervention services, and work with the parent(s) to assure the provision of appropriate academic intervention services. Placement in educational programs during the regular school day, however, remains the responsibility of the district and school.*

**Q. Do parent(s) have the right to advocate for their child to receive academic intervention services or to make changes in academic intervention services already being provided for their child?**

**A.** *Yes. Parent(s) may advocate for their child to receive academic intervention services. The district should, in a timely manner, listen to parental concerns and review the student's school record and assessment results to determine if the child meets eligibility criteria for AIS. Parents also have right to request changes in the program of academic intervention services being provided to their child. District and school staff should work with parent(s) to determine the possible necessity for changes based on additional information; and review scheduling and delivery options that might better meet the student's needs. However, the district retains the responsibility for appropriate placement of the student.*

**20 U.S.C.**

**United States Code, 2011 Edition**

**Title 20 - EDUCATION**

**CHAPTER 48 - DEPARTMENT OF EDUCATION**

**SUBCHAPTER I - GENERAL PROVISIONS**

From the U.S. Government Printing Office, [www.gpo.gov](http://www.gpo.gov)

**SUBCHAPTER I—GENERAL PROVISIONS**

**§3401. Congressional findings**

**The Congress finds that—**

(1) education is fundamental to the development of individual citizens and the progress of the Nation;

(2) there is a continuing need to ensure equal access for all Americans to educational opportunities of a high quality, and such educational opportunities should not be denied because of race, creed, color, national origin, or sex;

**(3) parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;**

(4) in our Federal system, the primary public responsibility for education is reserved respectively to the States and the local school systems and other instrumentalities of the States;

(5) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(6) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted;

(7) there is a need for improvement in the management and coordination of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

(8) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(9) Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the executive branch of the Government; and

(10) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

(Pub. L. 96–88, title I, §101, Oct. 17, 1979, 93 Stat. 669.)

# Parental Rights

Parental rights, especially in the area of education, are broadly protected by United States Supreme Court decisions. The U.S. Supreme Court has repeatedly held that parents have the fundamental right to direct the upbringing and education of their children.

In *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925), the U.S. Supreme Court declared that, “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.”;

In recognition of both the right and responsibility of parents to control their children’s education, the U.S. Supreme Court has further stated, “It is cardinal with us that 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. Massachusetts*, 321 U.S. 158, 166 (1944);

The U.S. Supreme Court has also recognized that the right of parents to raise their children free from unreasonable state interferences is one of the unwritten liberties protected by the due process clause of the Fourteenth Amendment to the U.S. Constitution and criticized a state legislature for trying to interfere “with the power of parents to control the education of their own.” *Meyer v. Nebraska*, 262 U.S. 390, 401 (1923).

## Sample Test Refusal Letter

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 NYS Student Information Repository System (SIRS) Manual 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 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 Testing Program Educator Guide to the 2013 Common Core which, on page 9, 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,

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 any standardized assessments imposed on children across the state for remainder of 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.

This year we will show effort to eliminate unnecessary and harmful assessments in our public schools. Our child will not participate in any assessments other than those solely for the use of the individual classroom teacher. We refuse to allow any data to be used for purposes other than the individual teacher's own formative or cumulative assessment. Any assessment 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 will not be presented to our child. To be clear, our children will not participate in the following:

- Any state assessment
- Any so-called "benchmark" exams whether they are teacher-designed or not, since these exams are imposed by entities other than the individual teacher.
- Pre-assessments connected to "Student Learning Objectives".
- Any surveys, or "field tests" given by corporate or government entities or testing companies.
- Any progress- monitoring or RTI assessments such as Aimsweb
- Any exam used to formulate an evaluation or score for our children's teachers or their school.

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 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)**

Dear \_\_\_\_\_,

As you are aware, during the 2012-2013 school year we refused to allow our children participate in standardized assessments imposed on children across the state.

This coming school year (2013 -2014), I will continue my effort to eliminate unnecessary and harmful assessments along with the punitive, unjustly and degrading measures (APPR) that are being used to evaluate teachers and principals in our public schools. My children \_\_\_\_\_ and \_\_\_\_\_ will not participate in any assessments other than those solely for the use of the individual classroom teacher.

I will not allow any data to be used for purposes other than the individual teacher's own formative or cumulative assessment. Any assessment whose data is used to determine school ranking, teacher and principal 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 will not be presented to my child. To be clear, my child will not participate in the following:

- Any state assessment other than Regents exams.
- Any so-called "benchmark" (SLO) exams whether they are teacher-designed or not, since these exams are imposed by entities other than the individual teacher.
- Any surveys and/ or "field tests" given by corporate or government entities or testing companies.

I will continue to stand up against the corporate and government takeover of our schools and advocate for what is best for children, teachers and administrators. I will not stay silent and do nothing while these unjustly abusive mandates and policies are setting up our children and our schools for failure. I believe in and trust our highly qualified and dedicated teachers and administrators. I believe that my children's education should be trusted to those who are most experienced and who personally know the needs and individual requirements of each child. Teachers already know how to determine those needs and requirements without mandated standardized assessments. Our schools will not suffer when these tests are finally gone. They will flourish.

As experienced during the 2012-2013 school year, I expect my child to receive the same accommodation of an appropriate alternate activity while the assessments are being administered. It is my hope that our district will soon have a resolution in place similar to those of the Comsewogue, Great Neck, West Islip, Rockville Centre, and scores of other districts across New York State denouncing these assessments.

Thank you for all you do and your great leadership.

With deep respect,

## Sample Rebuttal Letter

You will receive a response to your opt out letter from your district that states that there is no provision in statute or regulations allowing parents to opt their children out of tests in New York State Assessments. **PARENTS HAVE THE CONSTITUTIONAL RIGHT TO OPT OUT THEIR CHILDREN!**

Dear ( **Superintendent's name** )

I am well aware there is no provision in statute or regulations allowing parents to opt their children out of tests in New York State. However, federal law states that parents possess the “fundamental right” to “direct the upbringing and education of their children.” Furthermore, the Court declared that “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.” In recognition of both the right and responsibility of parents to control their children’s education, the Court has stated, “It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for the obligations the State can neither supply nor hinder.” Just to be clear, ( **name of school district** ) does not have permission to administer any state or district mandated standardized benchmark assessments to my children **Enter children's full name**.

Sincerely,  
( **your name** )

[Attach Copy Of The United States Code Chapter 48 Department of Education Subchapter I - GENERAL PROVISIONS](#)

## Rebuttal to District

Dear (Superintendents Name),

We are writing regarding the Opt-Out letter from (Name of administrator) that was sent via Backpack Express on Friday, April 12, 2013, we feel that the administration of the district has always had a clear and positive communication with our community, this being said we would like to point out that there is some important information omitted in the letter as well as information that we feel needs further clarification.

It is stated, "Neither the federal law nor the New York State Commissioner's Regulations provide any legal right or mechanism for children to opt-out of state assessments required by the federal No Child Left Behind Act (NCLB). NCLB requires states administer tests in English Language Arts (ELA) and mathematics in grades 3-8 and science at selected grades." While this is correct, a child may refuse as described in the NYS Student Information Repository System Manual and be scored accordingly. In addition, there are federal laws that state parents possess the "fundamental right" to "direct the upbringing and education of their children." We have the constitutional right to direct our children to "Refuse" all state assessments.

In addition, you failed to inform the community that the U.S. Education Department granted New York State an ESEA waiver from the specific provisions of No Child Left Behind. In exchange, NY agreed to set higher standards, provide a rigorous curriculum aligned with the "Common Core" standards, and look at student growth and graduation rates in addition to test scores as a way to measure school performance. New York was required to identify schools as either "Priority Schools", "Focus Schools" or schools "in good standing". The designation of "in good standing" CAN'T BE CHANGED until the 2015-16 school year-regardless of student test scores and student participation. There are NO consequences for less than 95% participation on state tests, or for low scores.

We would like you to clarify exactly what additional services that could add to the budget in regards to the AYP.

We understand that under APPR, "student achievement is 40% of a teacher's and principal's performance evaluation with part dependent on student growth on state assessments or comparable measures." Please clarify what is the comparable measure and also where it is stated, "It is unknown whether student refusal to take any state assessments will be considered in this calculation under APPR" or is this just the interpretation of the district?

It is written that "the student who does not meet state proficiency levels are monitored, but are not absolutely required to be removed from class to receive additional academic support." Does our district include parents in the decision-making process for support services including the service called "progressive monitoring"?

Finally, in regards to personal student information, it is stated that "All districts receiving Race to the Top funding will have their data included in the analysis, including (name of district)." Can you guarantee that our children's personal information will be protected? Please inform us as to how the district plans to implement that protection.

While we understand the district is legally required to administer these tests, we have determined that the present testing system is grossly excessive, poorly designed, punitive to students, teachers and our schools. We can no longer sit by and watch the corporate and government takeover of our schools. We believe in our dedicated and qualified teachers and administrators and need to advocate for what is best for our children. We want our teachers to be able to teach again. We want our children to be able to learn again, in all ways, we want the schools to be places children can grow and socialize in a calm and supportive environment.

Thank you,

## Sample Board of Education Letter

Good evening. Thank you for everything that you do for our children in the district. We all work hard to do what is best for the students.

My name is \_\_\_\_\_. I have (number of Children) that attend ( name of school).

I know \_\_\_\_\_ is an excellent school district, and I am happy that my children are able to go to here. However, with all of the recent changes in education, I am worried for them and their education.

NYS standardized testing has become excessive and extraordinarily harmful to students, teachers, and our schools in general. It has changed the culture and climate of schools for the worse.

I believe in our students, teachers, administrators, and in you.

I believe in standards. I believe in assessments. I believe strongly in public education.

I do NOT believe that private companies, like Pearson, have the best interest of our children, our future leaders, in mind.

I do NOT believe in high-stakes standardized testing.

And, most importantly, I DO believe that the current implementation of high-stakes standardized testing will bankrupt and destroy public education.

High-stakes testing already pollutes our classrooms. There are test prep, SLOs, and Common Core Content Standards that are not developmentally appropriate, and set our children up to feel like failures from the start.

High stakes testing is also expensive. It is a tremendous financial burden which will bankrupt the public school system.

When I consider the effects of testing on our budget, I have three questions for you:

- 1) What are the direct and indirect costs of standardized testing?
- 2) What percentage of our budget is that?
- 3) The PARCC standardized testing is approaching which is a computerized test requiring additional technology to administer. What more will be cut as we allocate our funds to technology to meet that mandate?

As our resources are directed towards these mandates, they are taken away from the arts and other non-mandated elements of our curriculum which negatively impacts our students' ability to be truly college and career ready- or more simply said- their ability to be happy, healthy, and wise.

I believe that we are at a crucial point in public education. I do NOT believe that we can hunker down, do our best, and wait for these "tough times" to pass.

If we do not take a stand now, we may not have anything to stand for at all. Public education as we know it could disappear in the near future leaving us with a hierarchy of charter schools ranging from the "have-it-all" to "never-had-a-chance".

Here is my request. Other school boards across NYS have written resolutions on high stakes testing. I ask that you, too, stand up for our students and our community in this way. I have copies for you of a national resolution on high stakes testing. I urge you to review the information.

I would like to again thank you for everything that you do on a volunteer basis on behalf of our community and our students. I admire your courage to stand for what is right and look forward to your action in fighting the privatization and profiteering of public schools.

Thank you.

Dear (Politicians Name)

I'm writing today as a concerned parent of two children who attend public school in Suffolk County New York. Education "Reform" policies such as Annual Professional Performance Review (APPR) and the Common Core State Standards (CCSS) and the excessive amount of assessments that come with the standards are negatively effecting my children and their learning environment.

Having a child in kindergarten and a child in second grade I have knowledge of how much rigor children at such a young age are forced to endure. The CCSS are depriving my children of a meaningful education and deterring them away from developing a love for learning.

The Common Core State Standards are designed for the common students where does that leave the student who is uncommon? By uncommon I mean the student who it may take a while to learn and grasp the concepts of what is being taught, the student who has emotional difficulty adjusting and the student who is disadvantaged and worried if he/she will have dinner on the table that evening. We live in a society filled with uncommon people. What defines the Common student? What traits does that common student hold? We live in a nation where the common is not so common and teaching to standards that are geared toward the common student is setting our kids up for failure.

APPR is not just a concern for teachers. It is a great concern for parents and children in school as I see some of the negative consequences of the current APPR system affecting the learning environment at my child's school, and I hear similar stories from parents across the state. As a parent, I am very uncomfortable about my child's performance on a test being used to judge his teacher. Focusing on testing takes time away from a variety of valuable classroom experiences. It does nothing to foster deep and meaningful learning. Test preparation and testing itself consume a large amount of time that could otherwise be used for a more comprehensive education.

APPR forces teachers against their will to "teach to a test" that only measures a small percentage of what really matters and what I want my children to learn. This greatly narrows curriculum and as previously stated, and fosters superficial learning. All of the test preparation and tests themselves will suffocate love of learning rather than allow teachers the time to nurture and develop it by using creative means and collaboration with other teachers. Not only are children losing their passion for learning, stress and anxiety are greatly increased by testing. Kids I know are coming home with stomach- and headaches and telling their parents how scared they are of doing poorly on the test, or how they fear they are going to disappoint their teacher. No child deserves this burden!

A Met Life study shows that, "Principal and teacher satisfaction is declining. Principals' satisfaction with their jobs in the public schools has decreased nine percentage points since it was last measured in 2008. In that same period, teacher satisfaction has dropped precipitously by 23 percentage points, including a five-point decrease in the last year, to the lowest level it has been in the survey in 25 years. A majority of teachers report that they feel under great stress at least several days a week, a significant increase from 1985 when this was last measured."

The results of this study are simply put, SAD! And, I notice it in the schools. I have talked with many teachers across Long Island, and the profession they once loved has become a prison sentence. Teachers aren't given the respect their profession deserves. It's hard to even call it a profession anymore. If this trend continues, I am afraid that the best teachers will leave the profession as it has become so degrading. I want the best teachers for my children! Teaching is becoming and unwanted profession and the meager salary does nothing to attract new talent to the field. Finally, the cost of all of this testing adds up to millions of dollars each year for our state. This money could be used for so many more valuable forms of education and much needed resources and technology, especially for the schools that are already known to be struggling.

I'm reaching out to you in hopes that you can foster a resolution against these policies that are harming our public education system and setting our children up for failure and deterring them from developing a love for learning.

Sincerely,

**Let's start engaging our Federal representatives as well as our state leadership. Letter writers, get your typing fingers ready! Here are the ways to contact your representatives and Senators: Contact your representative.**

**Regardless of where you live in NY, be sure to send a copy of your letter to Timothy Bishop and Carolyn McCarthy, who sit on the Education and Workforce Committee.**

[http://www.house.gov/representatives/#state\\_ny](http://www.house.gov/representatives/#state_ny)

**Contact your Senator. Or both.**

[http://www.senate.gov/general/contact\\_information/senators\\_cfm.cfm?State=NY](http://www.senate.gov/general/contact_information/senators_cfm.cfm?State=NY)

**Contact the Education Committee Members in the NYS Assembly:**

<http://assembly.state.ny.us/comm/?sec=mem&id=12>

**Contact NYS Education Committee Members in the NYS Senate:**

<http://www.nysenate.gov/committee/education>

**Click on the links below for more information and see how others are standing up and fighting back to save our public education system from crumbling.**

[Opt Out New York Group](#)

[NY Stop Testing](#)

[Change the Stakes](#)

[NYS Allies for Public Education](#)

[The Plain Satisfactions](#)

[Long Island Opt Out](#)

[At the Chalk Face](#)

[Western New Yorkers for Public](#)

[Pencils DOWN Rockland County](#)

[Info  
Opt Out central New York](#)

[Children of the Core](#)

[Education  
New York Principals](#)

[Parents Kids Against Standardized](#)

[Greater Rochester Opt Out](#)

[Letter  
National Center for Fair & Open Testing](#)

[Testing  
Parents and Teachers Against the Common Core](#)

[Long Island Parents & Teachers Against Standardized Testing & APPR](#)

[Ken-Ton Parents Against Excessive Standardized](#)

[Rethinking Testing Mid-Hudson Region](#)

[Testing  
Time Out From Excessive High Stakes Testing](#)

[Network for Public Education](#)

[Letters and Experiences of Parents who chose to Opt Out Group](#)

[No Common Sense Education](#)

[Lace To The  
Top](#)

## Resources

<http://www.p12.nysed.gov/irs/sirs/>

<http://www.p12.nysed.gov/assessment/schedules/2013/ei-schedule-13.pdf>

[http://www.p12.nysed.gov/accountability/documents/NYSESEAFlexibilityWaiver\\_REVISED.pdf](http://www.p12.nysed.gov/accountability/documents/NYSESEAFlexibilityWaiver_REVISED.pdf)

<http://www.p12.nysed.gov/irs/sirs/>

<http://www.p12.nysed.gov/part100/pages/AISQAweb.pdf>

<http://uscode.house.gov/download/pls/20C48.txt>