



Director
Office of State Assessment

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To: Superintendents of Public Schools
Principals of Public, Charter, and Nonpublic Schools

From: Steven E. Katz *Steven E Katz*

Subject: Information on Student Participation in State Assessments

Below is a summary of federal and State requirements and policies regarding student participation in New York State elementary and intermediate operational and field tests.

The federal No Child Left Behind Act requires that State tests be administered in English language arts and mathematics in Grades 3-8, and in science at least once during Grades 3–5 and 6–9. In accordance with the federal requirements and Sections 100.3 and 100.4 of the Commissioner's regulations, the Department requires that all students in public and charter schools in Grades 3–8 must take all state assessments administered for their grade level. This includes students who were retained in these grades.

State testing is considered an important part of instruction in education programs. It provides an evaluation of student mastery of content and skills in various courses of study and helps shape future instruction. Tests are considered part of a "course of study" under a board's authority and, as noted above, are included as part of the program requirements for students in Grades 3–8 under Sections 100.3 and 100.4 of the Regulations of the Commissioner of Education.

With the exception of certain areas in which parental consent is required, such as Committee on Special Education (CSE) evaluations for students with disabilities and certain federally-funded surveys and analyses specified under the federal Protection of Pupil Rights Amendment (see 20 U.S.C. 1232h), there is no provision in statute or regulation allowing parents to opt their children out of State tests. The failure to comply with the requirements provided above will have a negative impact on a school or school district's accountability, as all schools are required to have a 95% participation rate in State testing.

Further, in order to ensure the validity and reliability of the New York State operational tests, field testing is a crucial part of the test development process. All schools that administer State operational tests are also required to administer the field tests associated with them. The questions on the field tests and operational tests are the property of the Department. Contractors and testing companies who work with the Department's testing program do not acquire any ownership of the questions.

If you have additional questions regarding the State testing program, please contact us at emscassessinfo@mail.nysed.gov.