

4161

2015-2016 Regular Sessions

I N S E N A T E

March 4, 2015

Introduced by Sens. MURPHY, FUNKE -- read twice and ordered printed, and
when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to enacting the "common
core parental refusal act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "common
2 core parental refusal act".
3 S 2. Section 305 of the education law is amended by adding a new
4 subdivision 51-a to read as follows:
5 51-A. THE COMMISSIONER SHALL ENSURE THAT SCHOOL DISTRICTS NOTIFY
6 PARENTS OF STUDENTS IN GRADES THREE THROUGH EIGHT, EITHER BY EMAIL
7 AND/OR A MAILED LETTER, THAT SUCH STUDENTS MAY REFUSE TO PARTICIPATE IN
8 ALL STATE TESTING PROVIDED BY PEARSON OR ANY OTHER STATE TESTING BASED
9 ON COMMON CORE STANDARDS. SUCH NOTIFICATION SHALL BE GIVEN NO SOONER
10 THAN FOURTEEN DAYS AND NO LATER THAN SEVEN DAYS PRIOR TO THE SCHEDULED
11 ADMINISTRATION OF SUCH TESTING. SUCH NOTIFICATION SHALL READ AS
12 FOLLOWS:
13 "IT IS THE RIGHT OF EVERY PARENT TO DIRECT THE UPBRINGING AND EDUCA-
14 TION OF THEIR CHILDREN. PARENTS MAY REFUSE TO PERMIT THEIR CHILDREN TO
15 TAKE STATE TESTING PROVIDED BY PEARSON OR ANY OTHER STATE TESTING BASED
16 ON COMMON CORE STANDARDS. PARENTS WHO REFUSE TO PERMIT THEIR CHILDREN TO
17 TAKE SUCH TESTS MAY FILL OUT AND RETURN THE ATTACHED FORM. NO PUNITIVE
18 MEASURES MAY BE TAKEN AGAINST STUDENTS WHO REFUSE TO PARTICIPATE IN SUCH
19 TESTING, NOR SHALL STUDENTS WHO DO PARTICIPATE IN SUCH TESTING RECEIVE
20 ANY INCENTIVE OR REWARD FOR DOING SO."
21 THE TEXT OF SUCH NOTIFICATION SHALL BE POSTED ON SCHOOL DISTRICT
22 WEBSITES.
23 THE RESPONSE FORM, WHICH SHALL BE CONTAINED WITHIN THE NOTIFICATION,
24 SHALL READ AS FOLLOWS:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD09318-05-5

1 "AS THE PARENT OR LEGAL GUARDIAN OF _____ (CHILD'S FULL NAME), I
2 RESPECTFULLY AND FORMALLY STATE MY REFUSAL TO PERMIT MY CHILD TO TAKE
3 PART IN TESTING PROVIDED BY PEARSON OR ANY OTHER STATE TESTING BASED ON
4 COMMON CORE STANDARDS. MY CHILD SHALL BE SCORED AS A 'REFUSAL', RATHER
5 THAN AS 'ABSENT', IN ACCORDANCE WITH THE STUDENT INFORMATION REPOSITORY
6 SYSTEM, AND THEREFORE MY CHILD WILL CONTINUE TO RECEIVE A FREE AND
7 APPROPRIATE PUBLIC EDUCATION IN HIS/HER REGULAR CLASSROOM ENVIRONMENT
8 DURING THE ADMINISTRATION OF ALL MAKEUP TEST PERIODS AS THIS LETTER
9 PROVIDES WRITTEN VERIFICATION OF A 'REFUSAL' FOR ALL TESTS."

10 NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, IT
11 SHALL BE UNLAWFUL FOR ANY SCHOOL DISTRICT TO REQUIRE A STUDENT TO
12 PARTICIPATE IN TESTING PROVIDED BY PEARSON OR ANY OTHER STATE TESTING
13 BASED ON COMMON CORE STANDARDS. IT SHALL FURTHER BE UNLAWFUL FOR ANY
14 SCHOOL DISTRICT TO TAKE PUNITIVE MEASURES AGAINST STUDENTS WHO REFUSE TO
15 PARTICIPATE IN SUCH TESTING, OR PROVIDE ANY FORM OF INCENTIVE OR REWARD
16 FOR STUDENTS WHO DO SO PARTICIPATE. SCHOOL DISTRICTS SHALL PROVIDE
17 STUDENTS WHOSE PARENTS REFUSE TO PERMIT THEIR TESTING PARTICIPATION WITH
18 AN ALTERNATE EDUCATIONAL ACTIVITY DURING SCHEDULED STATE TESTING TIMES.
19 IT SHALL BE UNLAWFUL FOR SCHOOL DISTRICTS TO REQUIRE SUCH STUDENTS TO BE
20 PLACED IN A TESTING ROOM OR ENVIRONMENT DURING SCHEDULED STATE TESTING
21 TIMES OR MAKEUP TIMES. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION
22 TWO OF SECTION THREE HUNDRED SIX OF THIS ARTICLE, STATE AID FOR SCHOOLS
23 SHALL NOT BE CONTINGENT ON OR IN ANY WAY AFFECTED BY THE STUDENT PARTIC-
24 IPATION RATE FOR TESTING PROVIDED BY PEARSON OR ANY OTHER STATE TESTING
25 BASED ON COMMON CORE STANDARDS. NOTWITHSTANDING ANY OTHER LAW, RULE OR
26 REGULATION TO THE CONTRARY, SCORE RESULTS ON PEARSON OR ANY OTHER STATE
27 TESTING BASED ON COMMON CORE STANDARDS SHALL NOT CONSTITUTE GROUNDS OR
28 BE CONSIDERED AS A FACTOR FOR DETERMINING WHETHER A SCHOOL IS A CHRON-
29 ICALLY UNDERPERFORMING OR FAILING SCHOOL. NOR SHALL A SCHOOL DISTRICT
30 GIVE ANY CONSIDERATION TO CLASSROOM PARTICIPATION RATES IN SUCH TESTING
31 WHEN EVALUATING TEACHER PERFORMANCE OR MAKING PERSONNEL DECISIONS. IT
32 SHALL LIKEWISE BE UNLAWFUL FOR A SCHOOL DISTRICT TO RE-ALLOCATE FUNDING
33 AMONG OR BETWEEN SCHOOLS WITHIN SUCH DISTRICT BASED ON STUDENT PARTIC-
34 IPATION RATES FOR SUCH TESTING.

35 S 3. This act shall take effect immediately.