S T A T E O F N E W Y O R K

4161--A

2015-2016 Regular Sessions

I N S E N A T E

March 4, 2015

Introduced by Sens. MURPHY, FUNKE, ADDABBO, CROCI, DILAN, FARLEY, GALLIVAN, GRIFFO, LATIMER, MARCHIONE, MARTINS, ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act shall be known and may be cited as the "common core parental refusal act".

S 2. Section 305 of the education law is amended by adding a new subdivision 51-b to read as follows:

51-B. THE COMMISSIONER SHALL ENSURE THAT SCHOOL DISTRICTS NOTIFY PARENTS OF STUDENTS IN GRADES THREE THROUGH EIGHT, EITHER BY EMAIL AND/OR A MAILED LETTER, THAT SUCH STUDENTS MAY REFUSE TO PARTICIPATE IN ALL STATE TESTING PROVIDED BY PEARSON OR ANY OTHER STATE TESTING BASED ON COMMON CORE STANDARDS. SUCH NOTIFICATION SHALL BE GIVEN NO SOONER THAN FOURTEEN DAYS AND NO LATER THAN SEVEN DAYS PRIOR TO THE SCHEDULED ADMINISTRATION OF SUCH TESTING. SUCH NOTIFICATION SHALL READ AS FOLLOWS:

"IT IS THE RIGHT OF EVERY PARENT TO DIRECT THE UPBRINGING AND EDUCATION OF THEIR CHILDREN. PARENTS MAY REFUSE TO PERMIT THEIR CHILDREN TO TAKE STATE TESTING PROVIDED BY PEARSON OR ANY OTHER STATE TESTING BASED ON COMMON CORE STANDARDS. PARENTS WHO REFUSE TO PERMIT THEIR CHILDREN TO TAKE SUCH TESTS MAY FILL OUT AND RETURN THE ATTACHED FORM. NO PUNITIVE MEASURES MAY BE TAKEN AGAINST STUDENTS WHO REFUSE TO PARTICIPATE IN SUCH TESTING, NOR SHALL STUDENTS WHO DO PARTICIPATE IN SUCH TESTING RECEIVE ANY INCENTIVE OR REWARD FOR DOING SO."

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

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THE TEXT OF SUCH NOTIFICATION SHALL BE POSTED ON SCHOOL DISTRICT WEBSITES.

THE RESPONSE FORM, WHICH SHALL BE CONTAINED WITHIN THE NOTIFICATION, SHALL READ AS FOLLOWS:

"AS THE PARENT OR LEGAL GUARDIAN OF _____(CHILD'S FULL NAME), I RESPECTFULLY AND FORMALLY STATE MY REFUSAL TO PERMIT MY CHILD TO TAKE PART IN TESTING PROVIDED BY PEARSON OR ANY OTHER STATE TESTING BASED ON COMMON CORE STANDARDS. MY CHILD SHALL BE SCORED AS A 'REFUSAL', RATHER THAN AS 'ABSENT', IN ACCORDANCE WITH THE STUDENT INFORMATION REPOSITORY SYSTEM, 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."

NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, IT SHALL BE UNLAWFUL FOR ANY SCHOOL DISTRICT TO REQUIRE A STUDENT TO PARTICIPATE IN TESTING PROVIDED BY PEARSON OR ANY OTHER STATE TESTING BASED ON COMMON CORE STANDARDS. IT SHALL FURTHER BE UNLAWFUL FOR ANY SCHOOL DISTRICT TO TAKE PUNITIVE MEASURES AGAINST STUDENTS WHO REFUSE TO PARTICIPATE IN SUCH TESTING, OR PROVIDE ANY FORM OF INCENTIVE OR REWARD FOR STUDENTS WHO DO SO PARTICIPATE. SCHOOL DISTRICTS SHALL PROVIDE STUDENTS WHOSE PARENTS REFUSE TO PERMIT THEIR TESTING PARTICIPATION WITH AN ALTERNATE EDUCATIONAL ACTIVITY DURING SCHEDULED STATE TESTING TIMES. IT SHALL BE UNLAWFUL FOR SCHOOL DISTRICTS TO REQUIRE SUCH STUDENTS TO BE PLACED IN A TESTING ROOM OR ENVIRONMENT DURING SCHEDULED STATE TESTING TIMES OR MAKEUP TIMES. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO OF SECTION THREE HUNDRED SIX OF THIS ARTICLE, STATE AID FOR SCHOOLS SHALL NOT BE CONTINGENT ON OR IN ANY WAY AFFECTED BY THE STUDENT PARTICIPATION RATE FOR TESTING PROVIDED BY PEARSON OR ANY OTHER STATE TESTING BASED ON COMMON CORE STANDARDS. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, SCORE RESULTS ON PEARSON OR ANY OTHER STATE TESTING BASED ON COMMON CORE STANDARDS SHALL NOT CONSTITUTE GROUNDS OR BE CONSIDERED AS A FACTOR FOR DETERMINING WHETHER A SCHOOL IS A CHRONICALLY UNDERPERFORMING OR FAILING SCHOOL. NOR SHALL A SCHOOL DISTRICT GIVE ANY CONSIDERATION TO CLASSROOM PARTICIPATION RATES IN SUCH TESTING WHEN EVALUATING TEACHER PERFORMANCE OR MAKING PERSONNEL DECISIONS. IT SHALL LIKEWISE BE UNLAWFUL FOR A SCHOOL DISTRICT TO RE-ALLOCATE FUNDING AMONG OR BETWEEN SCHOOLS WITHIN SUCH DISTRICT BASED ON STUDENT PARTICIPATION RATES FOR SUCH TESTING.

S 3. This act shall take effect immediately.