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September 9, 2015

**TO:** Chief School Administrators  
Charter School and Renaissance School Project Lead Persons  
School Principals  
District and School Test Coordinators

**FROM:** David C. Hespe  
Commissioner

**RE:** Student Participation in the Statewide Assessment Program

In an effort to clarify school district responsibility with regard to the participation of students in statewide assessment programs, the Department is providing the following guidance.

**Federal Requirements Regarding Statewide Assessment**

The Elementary and Secondary Education Act (ESEA), as reauthorized by the *No Child Left Behind* Act of 2001, requires schools with students in grades three through twelve to demonstrate Adequate Yearly Progress (AYP). In order to make AYP, a school must ensure that assessments have been taken by at least ninety-five percent (95%) of enrolled students in each subgroup, i.e., special education, English language learners, low income, race/ethnicity. Federal funding of key education programs is dependent upon districts meeting this requirement.

In February 2015, Assistant Secretary Deborah S. Delisle of the United States Department of Education (USED), provided a letter reiterating the State's responsibility with regard to administering a statewide assessment program. As indicated in this letter, the State's ESEA flexibility application did not change or remove the testing requirements outlined in the ESEA. Assistant Secretary Delisle also details the range of enforcement actions the USED may take if the State fails to comply with these mandated assessment requirements. For more information, please refer to the attached letter from Assistant Secretary Delisle, dated February 20, 2015.

## **State Requirements Regarding Statewide Assessment**

In compliance with the federal requirement to administer a statewide assessment program, State law requires, at N.J.S.A. 18A:7C-1, the Commissioner of Education (Commissioner), with approval of the State Board of Education (State Board), to establish a program of standards for graduation from secondary school, and such a program shall include, “[t]he development of a Statewide assessment test in reading, writing, and computational skills to be administered to all secondary school pupils...” In addition, N.J.A.C. 6A:8-4.1(a) and (b) provides, “[t]he Commissioner...may implement assessment of student achievement in the State’s public schools in any grade(s) and by such assessments as he or she deems appropriate,” and the Commissioner “...shall define the scope and level of student performance on Statewide assessments that demonstrate thorough understanding of the knowledge and skills delineated by the [state standards] at grade levels three through 12.” Subsection (c) further states that district boards of education “shall, according to a schedule prescribed by the Commissioner, administer the applicable Statewide assessments,” and subsection (d) confirms that “all students at grade levels three through 12, and at any other grade(s) designated by the Commissioner...shall take appropriate Statewide assessments as scheduled.”

Furthermore, in February 2014, the State Board passed a resolution confirming that district boards of education are obligated to implement the Core Curriculum Content Standards and to “ensure students meet the expectations and proficiency standards as measured by current and future State and local assessments.” The resolution can be found at: <http://www.state.nj.us/education/sboe/meetings/2014/February/public/Resolution%20in%20Support%20of%20the%20Common%20Core.pdf>.

In Sum, State law and regulations require all students to take State assessments. It is important to note that, although we have provided alternative ways for students to demonstrate the statewide assessment competencies required under State law for demonstrating proficiency for graduation during the transition to a new standardized test, students are still expected to participate in the statewide assessment program.

## **Policies and Procedures Regarding Student Participation in Statewide Assessment**

As in the past, schools must provide a testing environment that is conducive to students performing their best on the assessments. In this regard, school districts should be prepared in the event that students choose not to participate in the assessment program and adopt policies and procedures for the appropriate supervision and engagement of these students during administration of the assessment. The specific policies adopted by school districts regarding students not participating in the assessment program are entirely within the school district’s discretion, in consideration of each district’s school environment and available staffing and resources and recognizing that a statewide rule could not take into account these local circumstances. However, in developing these policies, districts should be mindful of ensuring appropriate student supervision and creating alternative options for student activity during the test period, so long as the testing environment is not disrupted and, in this regard, a sit and stare policy should be avoided. For example, students may be allowed to read in the testing environment, provided they are not logged into the test platform or reading material that is germane to the actual

assessment, i.e., a math textbook during administration of the math portion of the assessment. For additional information on developing policies and procedures regarding student participation, please refer to the attached Frequently Asked Question Document by the New Jersey School Boards Association, also available at the following link <http://www.njsba.org/news/pdfs/parcc-faq.pdf>.

In addition, it is strongly recommended that school districts inform parents of issues regarding the administration of statewide assessments, including the district's participation policy and how student assessments will be utilized in making promotion, retention, and placement decisions, as these are decisions within local school discretion. Further, school districts should discuss how parents can be engaged with the district when these decisions are being made. In the upcoming months, we suggest school districts consider discussing, in a public setting, how your district utilizes data to support all of its students in achieving their highest academic potential.

DCH/BAE

Attachment

c: Members, State Board of Education  
Senior Staff  
Jeffrey Hauger  
Executive County Superintendents  
Executive Directors for Regional Achievement Centers  
Garden State Coalition of Schools  
NJ LEE Group