NYSAPE Education Advisory on “Sit and Stare” & Test Refusal Procedures – April 2015

Over the past few weeks, NYSAPE has received many emails from concerned parents who have been told that their school district requires that students refusing the NYS assessments in grades 3-8 “Sit and Stare” and/or verbally refuse the tests. While NYSED has chosen to remain vague about how schools should handle student test refusal, there is absolutely no state regulation that requires a student to “sit and stare” or provide a verbal refusal. Contrary to the assertion that students who refuse the tests may not read, the 2015 NYS Common Core Test Administration Manual states:

Students who finish their test before the allocated time expires should be encouraged to go back and check their work. Once the student checks his or her work, or chooses not to, test materials may be collected by the proctor. After a student’s test materials are collected, that student may be permitted to read silently. This privilege is granted at the discretion of each school. No talking and no other schoolwork is permitted. If all students complete the test earlier than the allotted time, you may end the session.


It should be noted that the NYC Department Of Education recognizes the right to refuse and has codified in writing that students who refuse the test will be provided with an alternate activity such as reading. According to the NYC 2015 ELA and Math Student Participation Guide:

Still, some school districts have advanced the claim that allowing a student to engage in an alternate activity such as reading is illegal. There is no NYS regulation that asserts this and we would challenge anyone who makes such claims to produce said law or regulation. It should also be noted that these assertions contradict the official opinion set forth by
School Administrators Association of NYS (SAANYS) that: “There is NO requirement that students who opt out remain in the testing room with the other students who are taking the test. It is SAANYS position that such a procedure might be distracting to test takers and some may regard such a requirement to be uncomfortable for the students opting out.”

https://saanys.org/category/common-core-2/

The NYC Department of Education also recognizes that a parent bears the right to refuse for their child and gives the following guidance:

It is highly unlikely that the Chancellor of New York State’s largest school district would encourage schools to break the law.

Similarly, the Empire State School Administrators Association (ESSAA) advised school administrators on 3/25/15 that the NYS Commissioner of Education’s Office has advised that “while the ordinary procedure is to present the test to a student and have him/her refuse, if a parent asks you to not present the test at all, NYSED has recommended that you comply with the parent’s wishes.”

We hope that this information will be useful when advocating for your child. We suggest sharing this information with your local Board of Education and school administrators. For more information, visit nysape.org.