



Commissioner Elia recently distributed a “toolkit” on the 2017 New York State tests in grades 3-8 to NYS school superintendents and administrators. Commissioner Elia has suggested that school administrators utilize the content of this toolkit to communicate with parents and garner their support for the NYS testing program. We are concerned that while the document presents itself as objective truth, the omission of pertinent facts and context renders the content of the toolkit misleading.

While we recognize that by law, New York State must offer these tests to all students, we object to NYSED’s attempt to persuade parents to take these tests rather than simply relaying information and allowing parents to make informed decisions on behalf of their child(ren). As a result of the Commissioner's “toolkit,” administrators around the state have disseminated misinformation to families, eroding parental rights and creates further mistrust of the NYS Education Department.

The orange frames below contain excerpts from the toolkit. Beneath each, we explain why that particular excerpt is problematic. At the end of this document we’ve pasted in a suggested Q & A designed to communicate SED policies about test refusal in a straightforward and fact-based manner.

- **Students who are still working on their exams will be allowed to continue to work, within the confines of the regular school day, beyond the recommended testing times.** By removing time limits, students will be able to work at their own pace and not have to worry about the clock while taking the 2017 tests. The tests are designed to measure what students know and are able to do, not how quickly they can finish.

While proponents of this policy assert that lack of a time limit will lessen student anxiety, there is no proof of this; untimed testing is an experimental protocol with no research to support the idea that unlimited time improves student performance.

This toolkit bullet point puts a positive spin (“measuring what students know, not how quickly they finish”) on this policy, but elides the fact that “testing within the confines of the school day” could make it perfectly within bounds for students as

young as 9 years old to sit for up to 6 hours of testing *per day* for 6 days of testing.

A more practical fix would be to create shorter, more developmentally appropriate assessments that students can complete in a reasonable time frame.

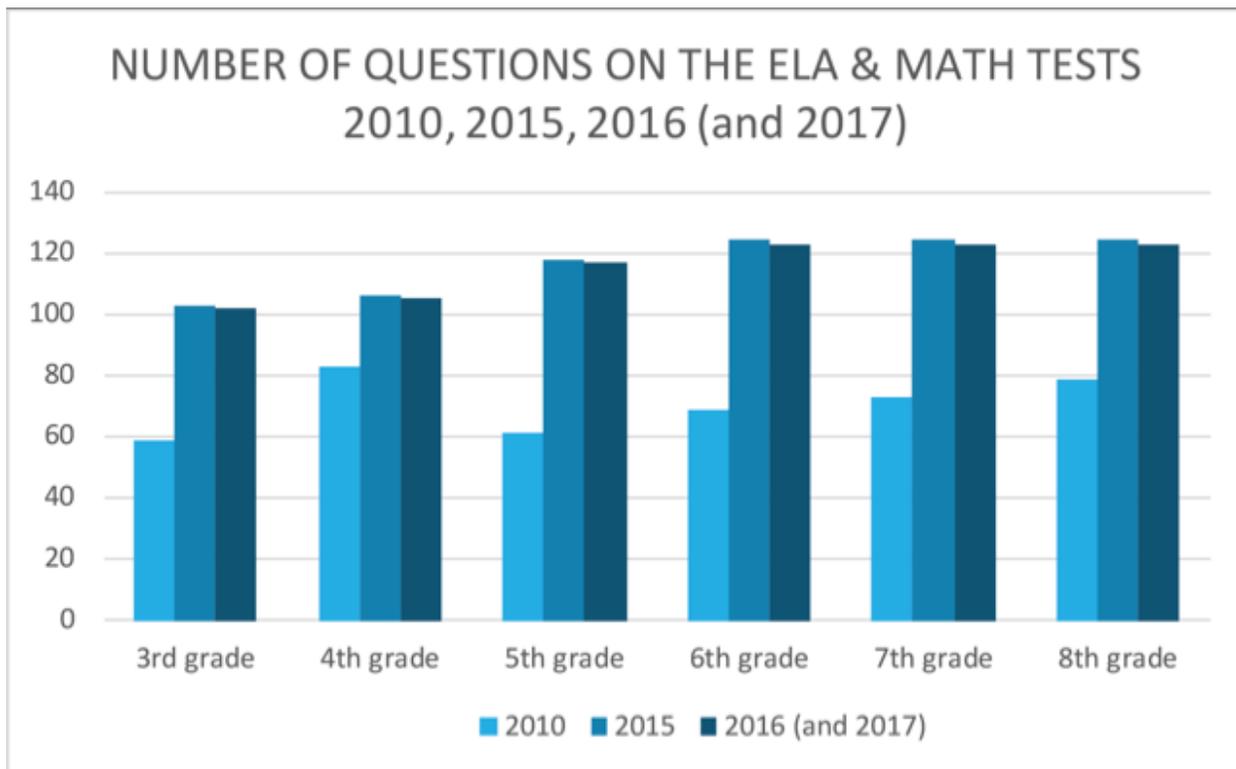
- **Fewer questions on the tests.** The number of questions on the 2017 tests will be the same as the 2016 tests. For the 2016 tests, the State Education Department decreased the number of test questions on both the ELA and the Math Tests for all grade levels, compared to previous years. Fewer questions, as compared to 2015, will help reduce testing fatigue for students.

NYSED states that both the 2016 and 2017 tests have fewer questions “compared to previous years.” This seems true at first glance, but a deeper look reveals a startling increase in the number of test items compared to just a few years ago.

Using NYSED's online test archive (for the 2010 test) and its own report of question quantity (the only way to know 2015 and 2016 numbers since those tests are not publicly released in their entirety on the archive), one can calculate how many test items a student in 2016 was required to answer compared to the number of questions a student in the same grade would have answered in 2010. A 5th grader taking the test in 2016 had to contend with 117 questions (combined math and ELA), whereas in 2010 a 5th grader would have answered 61 questions. That's 56 more questions in 2016, or an increase of 92% from 2010. The chart and graphic below detail the magnitude of the increase in every grade. The 2017 NYS tests will have the same number of questions as the 2016 tests and so show a similar increase over the 2010 tests.

GRADE	# QUESTIONS (ELA+MATH) 2016	# QUESTIONS (ELA+MATH) 2010	# ADDITIONAL QUESTIONS ON 2016 TESTS (COMPARED TO 2010)	% INCREASE IN QUESTIONS BETWEEN 2010 & 2016
3	50+52= <b>102</b>	28+31= <b>59</b>	43	73
4	50+55= <b>105</b>	35+48= <b>83</b>	22	27
5	62+55= <b>117</b>	27+34= <b>61</b>	56	92

6	62+61= <b>123</b>	34+35= <b>69</b>	54	78
7	62+61= <b>123</b>	35+38= <b>73</b>	50	68
8	62+61= <b>123</b>	34+45= <b>79</b>	44	56



Data for both the chart and graphic above were gleaned by counting items in the 2010 test booklets archived on [nysed.gov](http://nysed.gov) and via NYSED's [memo](#) announcing fewer test questions in 2016.

- **The tests have been thoroughly reviewed and constructed by New York State educators to ensure they measure what students are learning in their classrooms.** In response to concerns about the tests not covering the material that students are learning, the State Education Department brought teachers and other educators to Albany to review and select all passages and questions on the 2017 tests. Each passage and question on the 2017 test has been reviewed by at least 22 educators.

While it could be argued that the 22+ teachers brought in by the state “reviewed” test items, they did not “construct” them as claimed above; all questions and reading passages were pre-selected and **written by Pearson, not by teachers**. Teachers could only reject or accept passages or questions that appeared on a menu of pre-selected items. They could not, contrary to this claim, “ensure” that

what was measured equated with what was taught--because they could not *add* to the menu if the pre-selected items failed to represent the range of “material that their students were learning.” The way in which this bullet point is written omits this important fact and implies that educators had more input in the 2017 tests than they actually did.

#### 11. How long are the tests?

- The ELA and Math Tests are each given over a three-day period. It is estimated that students in Grades 3 and 4 will spend about 60-70 minutes on the test each day, while students in Grades 5-8 will spend about 80-90 minutes on the tests each day. In general, the tests take up less than 1-percent of the total time a student spends in class each year.
- However, since the 2017 tests will be untimed, exact test taking times will vary from student to student. The 2016 tests were also untimed.

Last year, NYSED failed to collect and maintain **any** data on the implementation of its experimental untimed protocol, including how many students availed themselves of additional time, their demographics, or how much additional time was utilized. In the absence of official data it is difficult to see how the state can estimate testing times and spread the claim that “In general, the tests take up less than 1 percent of the total time a student spends in class each year.” Not only is there no proof to back this claim, anecdotal evidence collected by teachers, as well as the fact that schools were instructed to ensure that students working past lunchtime were monitored during their meals for test security reasons, suggest that in many places, the time some children spent on the tests exceeded the 1% cap of total school time mandated by state law. (That cap is 9 hours, as calculated by multiplying 180 days [length of school year] x 5 hours [length of school day] for a total of 900 hours, one percent of which is 9.)

The state has made no announcement that it intends to monitor time spent on testing for 2017 either, meaning that there is no way to determine if it is operating within the bounds of the law capping testing time. Moreover, it is difficult to see how the state can make valid comparisons among students this year and between this year’s and last year’s tests if the timing is not consistent.

- **Student performance on the 2017 Grades 3-8 ELA and Mathematics Tests will have no employment-related consequences for teacher and principal evaluations.** In December 2015, the Board of Regents approved a moratorium on using student scores on these exams for educators’ consequential evaluation scores until the 2019-2020 school year. This means no teachers or principals in New York State public schools will be affected by the results of the 2017 Grades 3-8 ELA and Math Tests.

This is not true, or at best is only partially true. During the moratorium period, the NYS grades 3-8 ELA and math assessments (and Regents Exams) **will** continue to be used to calculate a State-provided student growth score to arrive at the “original” composite score and “original” HEDI rating. These “original” scores and ratings, which can be used for “advisory” purposes only (there is no available definition for what exactly “advisory” means in this context), will continue to be provided to teachers and principals, and will become **a permanent part of a teacher's or principal's employment record**. The law is silent as to whether, and to what extent, these “original” scores and HEDI ratings can be used after the moratorium period ends. However, if in the 2019-2020 academic year, the state resumes calculating “growth” scores--which are measured by analyzing progress from one year to the next--it is difficult to imagine how it would do so without looking back to the scores recorded during the moratorium. In addition, the original score and HEDI rating will be used for purposes of public reporting of aggregate data, individual employment records, and disclosure to parents.

Source: <https://www.regents.nysed.gov/common/regents/files/1215p12a5.pdf>

## Recommended FAQs for Test Refusal Information

### **1. Will students who refuse the tests be subject to any negative consequences? (score of 1, grade retention, banned from extracurricular activities, grade reductions, denial of services)?**

There are absolutely no consequences for students who refuse the assessments. NYS law states that “NYS assessments cannot be used as a sole or major determining factor for placement decisions.” Students who refuse will be coded as “not tested” and will not receive a score.

### **2. Are there any refusal procedures mandated by SED?**

Most districts request a note from parents, but SED has no mandated procedures for refusal. It is recommended that districts inform parents of their rights without any intimidation.

### **3. Will districts lose money if they do not test 95% of the students in the school?**

No, there are no state OR federal financial penalties for participation rates.

**4. Does SED have any mandated protocols during test administration for students who refuse?**

No. SED has no mandated protocols. It is recommended that districts allow refusal students to read or participate in other school directed activities in a separate location.

**5. Will districts with over 5% opt out rates be put on a focus district list?**

New ESSA regulations have eliminated all federal AYP accountability regulations, including focus and priority school designation. NY has not completed its final accountability regulations to comply with ESSA, therefore it is unknown at this time what designation, if any, NY will have in upcoming years.

**6. Does SED require an alternate test be given to refusal students?**

No. It is not recommended that refusal students be administered alternate assessments.

**7. Are the NYS grades 3-8 ELA and math assessments still being used for, or affecting, teacher and principal evaluations?**

During the moratorium period, the NYS grades 3-8 ELA and math assessments, and Regents Exams, WILL continue to be used to calculate a State-provided student growth score to arrive at the "original" composite score and "original" HEDI rating. These "original" scores and ratings can be used for advisory purposes only, will continue to be provided to teachers and principals, and will become a permanent part of a teacher's or principal's employment record. The law is silent as to whether and to what extent these "original" scores and HEDI ratings can be used after the moratorium period ends. In addition, the original score and HEDI rating will be used for purposes of public reporting of aggregate data, individual employment records, and disclosure to parents.

Source: <https://www.regents.nysed.gov/common/regents/files/1215p12a5.pdf>