



## Legislation Text

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**File #:** Res 0149-2018, **Version:** \*

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### Res. No. 149

Resolution calling upon the New York City Department of Education not to punish students or parents for opting out of State exams; not to punish schools, principals or teachers if parents opt out of State exams; not to punish superintendents, principals or teachers for informing parents of the right to opt out of State exams; and to provide alternate activities for students who opt out of State exams.

By Council Members Dromm and Levin

Whereas, The federal No Child Left Behind Act (NCLB) enacted in 2002 required that schools annually administer State tests in English language arts (ELA) and mathematics in grades 3-8, and in science at least once during grades 3-5 and 6-9; and

Whereas, Since passage of NCLB, public school systems have spent growing amounts of time, money and energy on high-stakes standardized testing, in which student performance on standardized tests is used to make major decisions affecting individual students, educators and schools; and

Whereas, In December 2015, NCLB was replaced by the Every Student Succeeds Act (ESSA); and

Whereas, While ESSA allows states greater flexibility in determining school accountability measures, both academic and non-academic, it maintains the requirement that schools annually administer State ELA and math tests in grades 3-8, and in science at least once during elementary, middle, and high school; and

Whereas, Many educators assert that the overreliance on high-stakes standardized testing undermines educational quality and equity in U.S. public schools by hampering teachers' efforts to focus on the broad range of learning experiences that promote innovation, creativity, problem solving, and critical thinking; and

Whereas, Additionally, critics contend that the over-emphasis on standardized testing has resulted in narrowing of the curriculum, teaching to the test, reducing time for learning, pushing students out of school, driving excellent teachers out of the profession, and undermining school climate; and

Whereas, Further, some analysts maintain that high-stakes standardized testing has negative effects upon low-income students, English language learners, children of color, and those with disabilities; and

Whereas, It is widely recognized that standardized testing is an inadequate and often unreliable measure of both student learning and educator effectiveness; and

Whereas, According to the organization Time Out From Testing, high stakes testing in New York takes away approximately 25% of our children's academic school year, including test preparation, interim assessments, days of testing and grading; and

Whereas, Many parents believe that high stakes testing takes the joy out of school and learning for children and teaches them to resent school; and

Whereas, A growing number of parents nationwide are refusing to allow their children to take high-stakes standardized tests, also known as "opting-out"; and

Whereas, In New York City, several organizations such as Change the Stakes and Time Out From Testing have encouraged boycotts of standardized testing and the number of families opting-out of State exams has been increasing each year; and

Whereas, Notably, there have also been some high-profile instances of City elementary schools, including the Castle Bridge school in Washington Heights and the Brooklyn New School, where large numbers of parents have refused to allow their children to take tests, with the active support of sympathetic principals and teachers; and

Whereas, Although some states have statutory opt-out provisions, there are no such statutes in New York or other explicit regulations allowing or prohibiting opting-out and no requirement that schools provide alternative activities for students who refuse to take tests; and

Whereas, Moreover, according to the New York State Association of School Attorneys (NYSASA), there are potential consequences for students and districts when students fail to participate in state testing; and

Whereas, Under State and federal accountability rules, if less than 95% of a school's students or

subgroups of students take the math or ELA assessments, the school faces consequences to be determined by the State; and

Whereas, Students can also be negatively affected, since districts may make determinations for promotion to the next grade or enrollment into honors courses or gifted and talented programs based, in part, on students' performances on state assessments; and

Whereas, Further, according to NYSASA, districts could prohibit students with unexcused absences on test days from participating in extracurricular clubs, athletics, or other school sponsored functions; and

Whereas, The New York City Department of Education (DOE) changed its promotion policy in 2014, so that State test scores may not be the primary or major factor in promotion decisions; instead promotion to the next grade will be based on a variety of measures of student progress, which may include course grades, samples of student writing, projects, assignments, and other performance-based student work; and

Whereas, Additionally, since March 2014, the DOE has distributed a parent guide that advises parents to first consult with their children's principal, and, if the parents still want to opt their child out of the exams, the guide states that "the principal should respect the parents' decision and let them know that the school will work to the best of their ability to provide the child with an alternate educational activity (e.g., reading) during testing times"; and

Whereas, Despite these policy and guidance changes, there is still widespread concern among students, parents and educators that they will face consequences for opting-out of State tests or encouraging others to do so; and

Whereas, There are anecdotal and press reports of mistreatment of parents and students by school personnel for opting-out of State tests; and

Whereas, In addition, some students who have refused to take State tests were reportedly denied the opportunity to participate in an alternate educational activity, such as reading silently, and instead were forced to sit and stare at the desk or wall for the duration of the exam; and

Whereas, Due to the ongoing use of test scores in accountability measures for schools, educators continue to face pressure and potential consequences when students refuse to take standardized tests; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Department of Education not to punish students or parents for opting out of State exams; not to punish schools, principals or teachers if parents opt out of State exams; not to punish superintendents, principals or teachers for informing parents of the right to opt out of State exams; and to provide alternate activities for students who opt out of State exams.

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