



Your Local School Board, Your Students and PARCC: Frequently Asked Questions

In April 2016, New Jersey school districts will begin year 2 of the administration of the PARCC (Partnership for the Assessment of Readiness for College and Careers) standardized assessment, developed by a consortium of states, including New Jersey. The computer-based exam is the state's testing program and measures student progress toward goals in language arts and mathematics.

In January 2016, the Study Commission on the Use of Student Assessments in New Jersey issued its [Final Report](#), which recommended continuation of PARCC as the state's assessment program.

NJSBA's legal, policy and field services staff members continue to receive a number of inquiries concerning administration of the exam, including the requirement for student participation. As a service to local school districts, NJSBA offers the following responses to frequently asked questions about the school board's responsibility as it relates to the administration of PARCC.

Are school districts required to administer the PARCC assessment?

Yes.

- New Jersey statute authorizes the State Board of Education and the Commissioner of Education to establish academic standards.
- Regulation adopted by the New Jersey State Board of Education provides that the Commissioner of Education will implement a testing program to measure student progress toward the standards.
- That same regulation requires that local boards of education administer the state testing program.
- In a [February 20, 2015 letter](#) to New Jersey Education Commissioner David Hespe, the US Department of Education stated that states must assess all students under the Elementary and Secondary Education Act of 1965.
- In a [September 9, 2015 memo](#), Commissioner of Education David Hespe reminded school administrators about the Federal and State requirements regarding statewide assessments. The Commissioner reiterated that schools must ensure that the 95 percent student participation requirement is met. Failure to meet that standard can impact receipt of federal funds. New Jersey's ESEA, now ESSA, flexibility application did not change or remove these test-participation requirements.
- In a [December 22, 2015 letter](#) to New Jersey's Chief State School Officer (David Hespe, Education Commissioner), the U.S. Department of Education stated that the recent reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA), known as the Every Student Succeeds Act (ESSA), retains the requirement that states must assess all

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students. Each local school district, as a condition of receiving Title I funds, is subject to the legal rule that all students in the tested grades must be assessed.

The State Board of Education has identified the PARCC assessment as the state's testing program, beginning in 2014-2015. PARCC replaced New Jersey's previous standardized tests, the NJASK in grades 3 through 8 and the HSPA in high school. The PARCC assessment will be used in the 2015-2016 school year.

Must students participate in the PARCC assessment?

Yes.

- State regulation contains the following provision: “*...all students at grade levels 3 through 12...shall take appropriate Statewide assessments as scheduled.*”
- In an [October 30, 2014 memo](#) and a [September 9, 2015](#) memo to school administrators, the Commissioner of Education cited law and regulation related to the state's testing program and wrote, “*...State law and regulations require all students to take State assessments.*”

PARCC is part of the state-required educational program. According to [state law](#) (N.J.S.A. 18A:37-1), “Pupils in public schools shall...pursue the prescribed course of study and submit to the authority of teachers and others in authority over them.”

Do statutes, regulations or court decisions permit students to opt out of the state testing program?

No.

New Jersey law and regulation require students to participate in the state testing program and do not include opt-out provisions. In addition, NJSBA is not aware of any court decisions that specifically address the ability or inability of general education students in public schools to opt out of state testing programs.

Although statute allows students not to participate in certain school programs (for example, animal dissection in biology class, certain student surveys, or family life education), these exceptions apply only to the specific activities and do not involve testing.

What action should a school district take if a student refuses to participate in PARCC?

Local districts have discretion on how they will address situations in which students attend school on test day but refuse to participate in the exam.

In his [September 9, 2015 memo](#) to school administrators, the Commissioner of Education advised the following:

“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."

In making that determination, district leaders should take into consideration testing protocols.

The Spring 2016 PARCC Test Coordinator and Test Administrator Manuals provide guidance on what New Jersey school districts should do when a student refuses to take the state assessment.

In addition, district leaders should also consider their school district's student discipline policy and regulations, if applicable; the responsibility of school staff to maintain an orderly testing environment; and available staffing and resources.

If a student does not attend school on test day, the school district's attendance policy, including excused and unexcused absences, applies. The state has issued testing protocols that include the provision of make-up days for students who are absent on the day of the exam.

The Commissioner of Education's October 30, 2014 memo recommended a review of school district discipline and attendance policies "to ensure that they address situations that may arise during days that statewide assessments...are being administered." That recommendation remains good advice.

For its members, NJSBA has developed a [model procedure](#) that they may wish to follow when addressing situations in which students refuse to participate in the state assessment.

What will be the impact on the state if students do not participate in PARCC?

In a December 21, 2015 letter to all chief state school officers, the U.S. Department of Education advised the following:

"If a State with a participation rate below 95 percent in the 2014-2015 school year fails to assess at least 95 percent of its students on the statewide assessment in 2015-2016, the U.S. Department of Education has a range of enforcement actions at its disposal. These include the following:

1. Withholding Title I, Part A State administrative funds;
2. Placing the State's Title I, Part A grant on high-risk status and directing the State to use a portion of its Title 1 State administrative funds to address low participation rates; or
3. Withholding or redirecting Title VI State assessment funds.

“The USDOE will consider the appropriate action to take for any State that does not assess at least 95 percent of its students in 2015-2016, both overall and for each student subgroup among its LEAs. To determine what action is most appropriate, the USDOE will consider state and local participation rates for 2015-2016, as well as action the state has taken with respect to any local school district noncompliance with the assessment requirements under ESSA.”

What will be the impact on the school district if students do not participate in PARCC?

The level of student participation in PARCC can affect federal funding for K-12 education in New Jersey, state aid to school districts, state monitoring (NJQSAC) results, the new teacher evaluation process, and the school district’s ability to design curriculum to meet student academic needs.

- The federal Elementary and Secondary Education Act requires that 95% of all students and 95% of students in subgroups (e.g., English language learners, economically disadvantaged, etc.) take state-required assessments. “Federal funding of key education programs is dependent upon districts meeting this requirement,” the Commissioner of Education told school administrators in his October 30, 2014 and September 9, 2015 memoranda.

In a [February 20, 2015 letter](#) to the New Jersey Commissioner of Education and in a December 22, 2015 letter to all chief state school officers, the U.S. Department of Education stated, “This requirement does not permit certain students or a specific percentage of students to be excluded from assessments. Rather, it sets out the rule that *all* students in the tested grades must be assessed.”

- In its December 21, 2015 letter to chief state school officers, the U.S. Department of Education advised as to actions a state could take against a local school district that did not assess at least 95% of its students. These actions include the following:
 - Lowering a school district’s or a school’s rating in the State’s accountability system or amending the system to flag a school district or a school with a low participation rate.
 - Counting non-participants as non-proficient in accountability determinations.
 - Requiring a school district or a school to develop an improvement plan, or take corrective actions to ensure that all students participate in the statewide assessments in the future, and providing the State’s process to review and monitor such plans.
 - Requiring a school district or a school to implement additional interventions aligned with the reason for low student participation, even if the State’s accountability system does not officially designate schools for such interventions.
 - Designating a school district or school as “high risk,” or a comparable status under the State’s laws and regulations, with a clear explanation for the implications of such a designation.
 - Withholding or directing use of State aid and/or funding flexibility.
- For the past two years, the state has calculated aid to local school districts partly on their Average Daily Attendance (ADA), rather than the annual mid-October child count. Under this practice, an ADA of less than 96% over a three-year period could adversely affect a district’s state aid.

- The NJQSAC monitoring system requires meeting annual measurable objectives in student achievement based upon 95% of the *total* student population demonstrating proficiency on state tests. A low participation rate may negatively affect this outcome.
- This year, Student Growth Percentiles, based on scores on the state tests, will account for 10% of an educator's performance appraisal under the AchieveNJ evaluation process. If fewer than 20 students within a class take the PARCC exam, student growth as reflected by the test scores cannot be factored into the evaluation.
- A low participation rate will affect the amount of information educators need to make informed decisions to modify curriculum and differentiate and personalize instruction.

The state has a range of other enforcement actions at its disposal when a local school district does not assess at least 95 percent of its students, including placing conditions upon, or withholding, Title I monies.

What is the impact on students who do not participate in PARCC?

If a student does not participate in PARCC, valuable information about his or her academic progress and needs will not be available. According to the Commissioner of Education, the PARCC assessments will provide detailed information about each individual student's performance. Teachers and administrators will be able to pinpoint areas of difficulty and customize instruction.

In addition, excessive absence could subject a student to sanctions under the board's student attendance policy (authorized by [state regulation](#), N.J.A.C. 6A:16-7.1 *et seq.*).

In his [September 9, 2015 memo](#) to school administrators, the Commissioner of Education "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."

May a school board adopt an opt-out policy?

Although there is no explicit statutory or regulatory prohibition against such a policy, it would be inconsistent with the state law requiring student participation in the state testing program. Local school board policies should reflect state law and regulation, as well as local school board beliefs.

Significantly, the Code of Ethics for School Board Members, which is part of the New Jersey School Ethics Act and is administered by the School Ethics Commission, states the following:

I will uphold and enforce all laws, rules and regulations of the State Board of Education, and court orders pertaining to the schools. Desired changes shall be brought about only through legal and ethical procedures.

An opt-out policy could be construed by the School Ethics Commission as violating this tenet. The board of education should also consider the impact that such a policy would have on students and the school district.

A local school board should obtain the advice of its board attorney on this matter.

Does NJSBA have model policies that could help districts address this issue?

NJSBA's Critical Policy Reference Manual (CPRM) contains model documents on "Evaluation of Individual Student Performance" including the state testing program; "Attendance, Absences and Excuses"; and "Discipline." (For members-only access to the CPRM, go to www.njsba.org/policy.)

The CPRM policy models are based on statutory and regulatory requirements, as well as applicable court decisions. Because they represent suggested board policies, they do not prescribe administrative responses to specific situations, such as student non-participation in state-required testing.

NJSBA recommends that school districts develop a course of action consistent with their own policies, state testing protocol and available resources. They should consult the board attorney when necessary. In addition, NJSBA's staff can provide information on applicable statute and code.

NJSBA has developed a [model procedure](#) that school districts may wish to follow when addressing situations in which students refuse to participate in the state assessment.

Where does NJSBA stand on PARCC and the state testing program?

NJSBA believes that the state testing program should provide educators with the information they need to advance students' academic achievement. Such data should be provided on a timely basis, so that educators can make decisions on student placement and the design of curriculum. Test administration time should not adversely affect the educational program, according to Association policy.

Where can I obtain more information about the school board's responsibility to administer the PARCC assessment?

NJSBA's Legal and Labor Relations Services Department provides a document, detailing [statutes and regulations](#) related to the administration of the state testing program. This document also includes an excerpt from a *Spring 2016 PARCC Test Administrator Manual*.