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The Honorable John King  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

January 20, 2016

Dear Secretary King,

On December 22, 2015, we received a copy of a letter sent by acting Assistant Secretary Ann Whalen to chief state school officers related to the key assessment requirements of the newly reauthorized ESEA of 1965, the Every Student Succeeds Act (ESSA). A week prior to receiving this letter, the education community celebrated this reauthorization as a step in the right direction. The ESSA seemingly corrected the overreach of the federal government in educational matters, which was inherent in No Child Left Behind, and rightfully placed the responsibility and accountability for education back in the hands of the states.

As you are aware, the test refusal movement arose in response to the state's efforts to comply with federal requirements associated with Race to the Top. The pressure to comply with these mandates resulted in a flawed implementation of the Common Core Standards reform, which resulted in the public's decision to not have their children participate in a widely acknowledged, poorly implemented assessment program. However, it appears that this most recent correspondence is in direct contrast with the spirit of the ESSA, as it threatens to punish states and schools that are dealing with the fallout of this flawed implementation. We urge the U.S. Department of Education to re-examine its position with regard to the 95 percent participation rate as the state attempts to regain the trust of parents in the assessment system.

The letter outlined the federal requirements related to state assessments, but more importantly, detailed the ways in which state education agencies (SEAs) could leverage local education agencies (LEAs) to reach the 95 percent participation rate, presumably due to the widespread and well-documented pushback related to Common Core-aligned state assessments. Among those leverage points, the letter included the following:

- Counting non-participants as “non-proficient” in accountability determinations;
- Withholding or directing use of state aid and/or funding flexibility;
- Placing a condition on or withholding an LEA's Title I, Part A funds.

At both the national and state levels, government and education leaders have recognized the need to revisit the implementation of various reform initiatives related to the Common Core Standards, curriculum, student assessments and teacher evaluations. Your call for a reduction of minutes spent on standardized testing, Governor Cuomo's Common Core Task Force, and the work of Education Commissioner Elia's standards review project are just a few of the simultaneous actions taking place today to ensure the success of the education reform movement.

With the acknowledgement that the system needs to be revisited for improvement, now is not the time to penalize school districts. District leaders have diligently served various and competing needs – the legal and regulatory need to run the educational program in their districts and the moral imperative to offer suggestions for improvement of our educational system to ensure that all students do succeed.

The specter of withheld state aid and Title I, Part A funds has far-reaching implications for all students. To illustrate, just the increase in state aid from 2014-15 to 2015-16 and the Title I, Part A funds for the 69 school districts in Suffolk County totals approximately \$123 million; in Nassau County, approximately \$86 million; and in the counties of the Lower Hudson, approximately \$140 million. Please consider the following:



### **SUFFOLK COUNTY:**

#### **Regarding Suffolk County's "test refusal movement":**

The average "low needs" district had a refusal rate of 42.9%.  
The average "average needs" district had a refusal rate of 45.7%.  
The average "high needs" district had a refusal rate of 25.7%.

#### **Regarding the potential loss of state aid:**

The 85,951 students in "low needs" districts stand to lose \$21,984,071 (avg. of \$255.77/pupil).  
The 124,493 students in "average needs" districts stand to lose \$54,580,788 (avg. of \$438.42/pupil).  
The 36,831 students in "high needs" districts stand to lose \$23,937,702 (avg. of \$649.93/pupil).  
In total, 247,275 students in Suffolk County stand to lose \$100,502,561 (avg. of \$406.44/pupil).

#### **Regarding Title I, Part A funds:**

The 85,951 students in "low needs" districts stand to lose \$3,705,285 (avg. of \$43.10/pupil).  
The 124,493 students in "average needs" districts stand to lose \$11,691,464 (avg. of \$93.91/pupil).  
The 36,831 students in "high needs" districts stand to lose \$7,058,775 (avg. of \$191.65/pupil).  
In total, 247,275 students in Suffolk County stand to lose \$22,455,524 (avg. of \$90.81/pupil).

### **NASSAU COUNTY:**

#### **Regarding Nassau County's "test refusal movement":**

The average "low needs" district had a refusal rate of 40%.  
The average "average needs" district had a refusal rate of 34%.  
The average "high needs" district had a refusal rate of 9%.

#### **Regarding the potential loss of state aid:**

The 127,532 students in "low needs" districts stand to lose \$27,306,025 (avg. of \$214.11/pupil).  
The 45,053 students in "average needs" districts stand to lose \$14,646,024 (avg. of \$325.08/pupil).  
The 29,762 students in "high needs" districts stand to lose \$26,062,326 (avg. of \$875.69/pupil).  
In total, 202,347 students in Nassau County school districts stand to lose \$68,014,375 (avg. of \$336.13/pupil).

#### **Regarding Title I, Part A funds at risk:**

The 127,532 students in "low needs" districts stand to lose \$6,891,797 (avg. of \$54.04/pupil).  
The 45,053 students in "average needs" districts stand to lose \$5,088,419 (avg. of \$112.94/pupil).  
The 29,762 students in "high needs" districts stand to lose \$6,596,995 (avg. of \$221.66/pupil).  
In total, 202,347 students in Nassau County school districts stand to lose \$18,577,211 (avg. of \$91.81/pupil).

### **THE COUNTIES OF THE LOWER HUDSON:**

#### **Regarding the counties of the Lower Hudson (Westchester, Putnam, Dutchess, Rockland) "test refusal movement":**

The average "low needs" district had a refusal rate of 26%.  
The average "average needs" district had a refusal rate of 34.25%.  
The average "high needs" district had a refusal rate of 6.3%.  
The average city district had a refusal rate of 9%.

#### **Regarding the potential loss of state aid:**

The 105,400 students in "low needs" districts stand to lose \$19,168,772 (avg. of \$181.87/pupil).  
The 85,019 students in "average needs" districts stand to lose \$24,775,825 (avg. of \$291.42/pupil).  
The 30,976 students in "high needs" districts stand to lose \$24,121,526 (avg. of \$778.72/pupil).  
The 26,488 in city districts stand to lose \$19,621,976 (avg. of \$740.79/pupil).  
In total, 247,883 students in the Lower Hudson region stand to lose \$87,688,099 (avg. \$353.75/pupil).



**Regarding Title I, Part A funds:**

The 105,400 students in “low needs” districts stand to lose \$6,831,012 (avg. of \$ 64.81/pupil).  
 The 85,019 students in “average needs” districts stand to lose \$13,715,381 (avg. of \$ 161.32/pupil).  
 The 30,976 students in “high needs” districts stand to lose \$22,642,206 (avg. of \$ 614.76/pupil).  
 The 26,488 in city districts stand to lose \$9,432,727 (avg. of \$356.11 /pupil).  
 In total, 247,883 students in the Lower Hudson region stand to lose \$52,621,326 (avg. of \$212.28 /pupil).

Title I and state aid are vital components of school district budgets. Not only do they fund mission-critical staff positions like reading and math teachers, but they also provide critical academic interventions for our students and offset the burden on the property taxpayer by sharing in the cost of running the school district program.

The various test refusal movement organizations in New York have recently and publicly stated that they do not intend to change their goal of reaching even higher test refusal rates across the state this spring. As a result, school leaders continue to navigate this challenge. The School Superintendents of Nassau County, Suffolk County and the counties of the Lower Hudson respectfully urge you to eliminate the threat of sanctions given this public wave of objection and its impact on thousands of students. The combined loss of approximately \$350 million to Nassau County, Suffolk County and the counties of the Lower Hudson school districts will have a tremendous impact on educational opportunities for students; a district impact chart is included with this letter for your reference.

We remain committed to a partnership around the ideals of public education and also to working with both national and state leaders on reform efforts that bring about research-based best practices for our students.

Sincerely,

*Lorna R. Lewis*

Dr. Lorna R. Lewis  
 President  
 NCCSS

*Susan A. Schnebel*

Susan A. Schnebel  
 President  
 SCCSA

*Mary Fox-Alter*

Mary Fox-Alter  
 President  
 LHCSS

Enclosure: District Impact Chart

CC: The Honorable Barack Obama, President of the United States of America  
 New York State Delegation, United States Senate  
 New York State Delegation, United States House of Representatives  
 The Honorable Andrew M. Cuomo, Governor of New York State  
 The Honorable Roger Tilles, New York State Board of Regents  
 The Honorable Judith Johnson, New York State Board of Regents  
 Suffolk County Delegation to the New York State Senate  
 Suffolk County Delegation to the New York State Assembly  
 Nassau County Delegation to the New York State Senate  
 Nassau County Delegation to the New York State Assembly  
 Counties of the Lower Hudson Delegation to the New York State Senate  
 Counties of the Lower Hudson Delegation to the New York State Assembly  
 The Honorable MaryEllen Elia, Education Commissioner