

Answer Sheet

Will schools lose federal funds if kids don't take mandated tests? Fact vs. threat

By **Valerie Strauss** April 2

I've recently published a number of posts on the growth and impact of the standardized testing opt-out movement. As more parents choose against allowing their children to sit down for new mandated tests, the pushback from administrators is increasing in many places, with some of them threatening consequences to students who refuse to take the assessments.

Here's a look at what is true and not true about the consequences attached to opting out from standardized testings. It was written by Monty Neill, executive director of the [National Center for Fair and Open Testing, known as FairTest](#), a nonprofit organization that works to end the misuses of standardized testing and to ensure that evaluation of students, educators and schools is fair, open, valid and educationally sound.

By Monty Neill

Across the nation, tens of thousands of parents opted their children out of standardized tests in 2014, and this year, [many more have or will do so](#). The testing resistance and reform movement is shaking up supporters of the test-and-punish status quo, who are fighting back.

Defenders of excessive and high-stakes testing rely on two major arguments: frequent testing is good for children and schools, and too many refusals will lead to a loss of federal funds for the students' district.

The first claim is increasingly ineffective. Growing numbers of parents recognize that standardized exam overkill does not improve educational quality or equity. On the contrary, it pushes schools into incessant test prep mode and emotionally damages many children. Each week, more and more parents choose to protect their children and schools by refusing the tests. They don't buy the argument that a small reduction in testing volume will solve the problem. Instead, they demand a fundamental overhaul of federal, state and district policies.

With the testing-is-good-for-you argument failing, authorities are turning to threats and bullying, often using the claim that schools will lose federal No Child Left Behind (NCLB) Title I funds. That threat is not based on any legal

language in NCLB or in waivers states have received to avoid sanctions under the federal law. To understand why, consider the following.

The [original text of NCLB](#), under its section on state plans, says that to make “adequate yearly progress” (AYP) a school must test 95 percent of its students. In the improvement section, the law establishes sanctions for not making AYP. The penalties apply only to schools receiving Title I funds. Nothing in the law authorizes withholding of federal aid, though up to 20 percent may be required to be diverted to other uses, including tutoring or transporting students to different schools.

However, AYP requirements are now irrelevant. More than 40 states have been given waivers by the Obama administration from the most onerous NCLB sanctions. While AYP reporting requirements remain, waivers remove NCLB punishments from all but the lowest-scoring (“priority”) schools in a state. Thus, schools in waiver states no longer must transport or tutor. As a result, the only federal funding penalties specified in the original NCLB law have been suspended.

In states that do not have waivers, few if any schools report 100 percent of students scoring “proficient,” NCLB’s current requirement for making AYP. Since that means almost all schools face sanctions, it hardly matters if fewer than 95 percent of the students take the state exam.

FairTest is not aware of a single school that lost federal Title I funds due to low test-taking rates, including many in New York that had large numbers of opt outs last year. However, officials in a number of states still aggressively attack the opt out movement claiming that refusing to take the test puts federal aid at risk. Recently, the U.S. Department of Education joined the battle by suggesting there is a danger of funding loss and threatening states, districts and schools.

The Department of Education’s statements appear deliberately misleading. They confound the law’s requirement that states administer a testing system that covers all children with the non-existent requirement that all children take the test. They imply that a state that allows opting out is at risk of violating NCLB, even though seven states (Utah, Wisconsin, Pennsylvania, Minnesota, Oregon, Washington and California) already have such provisions and none has lost a penny in federal funding due to these provisions.

Assistant Education Secretary Deborah Delisle [recently indicated](#) she expected state superintendents to pressure parents to comply. She added that the Education Department could consider other federal education requirements to use against schools that do not receive Title I. But she also acknowledged the U.S. government does not intend to take funding away from programs that serve children!

Clearly, some government officials are trying to bully parents into submission (see, for example, [Illinois](#), [New Jersey](#) and [New York](#)). By muddying the water with inaccurate statements about the intricacies of federal law and

waivers, these officials seek to reduce opt-out numbers and buy time for discredited test-and-punish schemes. Overall, however, this tactic is failing as opt-out numbers increase and more parents and students get involved in the resistance movement.

Legislation allowing parents the right to opt their children out of state and district tests is moving ahead in at least 10 states, though none are likely to pass in time to affect this spring's testing season. Activists must continue to educate parents, the media, and officials about false federal funding cut-off claims. As public school stakeholders become more aware of disinformation campaigns, they are likely to grow angrier and more willing to fight the tests.

PS: Local advocates need to check the details of their state's NCLB waiver, if only to combat misinformation. Parents and students must consider potentially real sanctions in those states and districts that require students to pass a test to be promoted to the next grade or graduate. In addition, schools labeled "priority" under waiver provisions do have to meet the 95 percent test participation requirement to escape that category.

FYI:

▪ The NCLB law is at <http://www2.ed.gov/policy/elsec/leg/esea02/index.html>; specific points include:

- 95% requirement is at Sec. 1111(a)(2)(I)(2)(ii);*
- exempt from the sanctions under NCLB is at Sec. 1116(b)(2)(A)(ii).
- escalating sanctions are specified at Sec. 1116 for schools (b) and districts (c).

▪ For a FairTest fact sheet, see <http://www.fairtest.org/why-you-can-boycott-testing-without-fear>.

Valerie Strauss covers education and runs The Answer Sheet blog.
