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SAANYS Positions and Recommendations Related To: Student Testing Personal Identifiable Information Safeguards Implementation of Regents Reform Agenda

Student Testing, PreK-2:

Currently, no state or federal law or regulation requires that students in prekindergarten through grade two be administered standardized state assessments or third party vendor assessments. This matter was not an issue prior to the state education reforms designed and implemented under the Race to the Top competitive grant program. In school districts where such testing occurs, it is primarily attributable to Annual Professional Performance Review requirements. Based on information received by school districts from the State Education Department and Network Team Institutes, collective bargaining agreements (CBAs) and APPR plans were developed at the local level and underwent the extensive and burdensome state review/approval procedures.

The term *standardized test* is a generic category that applies to tests that are administered under controlled conditions that specify where, when, how and for how long children may respond to questions or prompts. Many of those who testified at recently conducted Senate hearings expressed concern about the administration of a class of standardized tests -- multiple choice "bubble" tests marketed by commercial test publishers -- to young students. The class of tests that may be regarded as "standardized" extends beyond such tests, and it may not always be clear whether a particular instrument is, or is not a standardized test. Moreover, there may be appropriate and compelling reasons for school professionals to administer standardized diagnostic tests to individual students to determine the conditions under which the student learns best, the rate of learning, necessary accommodations that are needed in order to demonstrate knowledge and competencies, etc.

SAANYS does not recommend legislation to bar the administration of all standardized tests to students in prekindergarten through grade 2. Such action would fly in the face of local control and the appropriate exercise of educators' professional discretion, and would also create a costly and burdensome requirement in school districts having to re-negotiate CBAs and to again complete SED review/approval procedures. Rather, it is recommended that prospectively, as CBAs sunset, standardized testing for the purpose of generating a score for the APPR be barred for K-2 students.

Privacy of Personally Identifiable Student Information:

Many or most school districts share some personally identifiable information with third party vendors as a means to promote the operation of cost-effective services, such as child nutrition programs and school transportation; or to support local data analysis and to make data more available to appropriate parties, such as students' parents, through portals. However, the State Education Department appears poised to markedly expand the amount and types of data that will be submitted to third party vendors and shared in a "cloud" managed by inBloom. In order to compel participation, the State Education Department has informed school districts that they will forfeit any additional Race to the Top funds if they do not select one of three vendors (DataCation from ConnectEDU, My Track from eScholar, or Schoolnet from Pearson), with cloud data warehousing by inBloom. In fact, the State Education Department has informed school districts that even if they choose not to participate in the EngageNY Portal Data Dashboard, personally identifiable student information will still be provided to inBloom by the State Education Department. The concerns expressed by many of those who provided testimony at the recent Senate hearings are well founded – there is a real need to establish safeguards to insure the confidentiality of personally identifiable information.

There appear to be two general types of safeguards under consideration:

- One that would permit parents, guardians and students who are at least 18 years of age to review documents regarding third party vendors and complete documents and procedures so that they may "opt-out." SAANYS does not support such an approach as it places too great a burden upon parents, guardians and students.
- SAANYS recommends the alternative approach that would establish "opt-in" consent procedures and procedural safeguards that would have general applicability. Such safeguards should include indemnification provisions for school districts and BOCES, limit the possible uses of data (prohibiting its use for commercial purposes) and address the disposition of data upon contract completion/termination or students exiting the school system by graduating or dropping out. Safeguards should also require vendors to document the plans and procedures applicable to instances of suspected or actual data breaches, and fiscal penalties should be set for vendor violations.

It is also recommended that the specific types of data to be provided to third party vendors be publically vetted and clearly specified in statute to ensure that there is a real and compelling educational purpose for each type of data that will benefit students.

Implementation of Regents Reform Agenda:

One of the most pervasive concerns raised during the Senate hearings was the rapidity with which multiple complex reforms were rolled-out simultaneously by the State Education Department – many of which have “high stakes” consequences for educators and students. Clearly, the roll-out was faulty and uneven, and continues to be so. Therefore, it is SAANYS’ position that there should be a “pause” or “moratorium” on aspects of the reform agenda and on the implementation of any high stakes consequences for students (e.g., promotion and graduation) and for educators (e.g., employment status and opportunities).

For APPRs -- In January of 2012, all associations included in the Education Conference Board (ECB) formally recommended to the Board of Regents that an independent evaluation of the state Annual Professional Performance Review (APPR) system should be conducted. We stand by this recommendation and further recommend that ineffective ratings and any employment related actions stemming from the APPR system be set-aside, commencing with 2012-13, until the study has been conducted and the system is determined to yield valid and reliable evaluations.

For Common Core Instruction – Complete the development of a comprehensive set of SED-developed common core learning standards (CCLS) curricula and instructional materials by an attainable and disclosed date certain. Require an expressed minimum amount of CCLS-related professional development be provided to teachers and administrators by a date certain.

For Common Core Testing – Require the timely and comprehensive release of test questions and answers that would allow in-depth item analysis to inform instruction and improve student learning. Postpone the implementation of the Common Core-aligned Regents exams as a graduation requirement.

For the EngageNY Data Portal – Determine the types of personally identifiable data that have a clear and legitimate educational purpose tied to program evaluation and research that is expected to improve education programs and student performance. Bar any additional data sharing by or through the State Education Department until data determinations and safeguards are in place.

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