

Thomas Scarice  
Superintendent  
Madison Public Schools  
10 Campus Dr.  
Madison, CT 06443

Good evening and thank you for this opportunity to share my testimony. My name is Thomas Scarice and I am the Superintendent of the Madison Public Schools. I would like to submit testimony opposing SB175, particularly section 3, which if you peel back the layers is a punitive measure to penalize districts which have parents who refuse to have their child participate in the state mastery exam. This “selective non-participation”, as the Commissioner has coined, or more commonly referred to as “opt out”, has been established as a legal right of a parent.

In my estimation this section of the bill would constitute a unilateral shift in state policy, which could be challenged on both legal and ethical grounds - how can the state punish districts, and the students within them, for the legal decisions of parents? It can't, at least under my understanding of law.

The stated intentions of the State Department of Education (SDE) regarding SB175 as presented to its own State Board of Education (SBE) on the record in the proposal summary for SBE on January 6, 2016 is:

- to ensure that districts that may be high performers but have achievement or graduation gaps or low participation in state assessments will not be eligible for Minimum Budget (MBR) relief.

As superintendent of a district with declining enrollment, exemption from MBR may be a financial relief to my community as we reorganize, and possibly close schools in the future. The connection of MBR to state test participation rates, only for category 1 and 2 schools under the state accountability model, raises even more concerns, perhaps violating equal protection under the law.

This is one of a number of sanctions that are being implemented by the SDE as communicated to superintendents on January 6, 2016. This clearly puts the onus on the superintendents to compel compliance in contrast to a parent's legal rights. My concern is that some of these draconian measures will be

implemented without the approval of the legislature, particularly the education committee. I would submit that this is a clear overreach of bureaucracy with harsh implications for communities based on a rightful legal decision of a parent.

The following measures from the Department of Education are illustrative of the punitive approach towards districts which parents exercise their rights and refuse to have their child participate in the state mastery exam:

1. Preventing category 1 and category 2 districts from accessing an exemption to state's Minimum Budget Requirement (MBR)
2. Withholding Title 1 funds
3. Dropping the school/district performance index indicator by one level

The unintended, or maybe intended, consequences will result in increased local property tax burdens and perhaps a warped perception of the school/district performance index system. This perception will be the result of the folly of arbitrarily dropping the school performance index one level for a school/district below the 95% participation rate. The SDE states that the state accountability "system should be a fair reflection of practice to minimize gamesmanship." However, the arbitrary nature of a drop in level for a district that falls shy of the 95% rate will compromise credibility of the system thereby making the entire school accountability system a farce.

This week, New York State Chancellor of Education, Merryl Tisch, stated the following: "We made a statement that we would not withhold funds from districts." New York has experienced significantly more parental opt outs than Connecticut. New York functions under the same federal law (ESSA) as Connecticut. Yet New York is not administering the same harsh consequences to districts when parents exercise their rights under the law.

The original purpose of the 95% participation mandate under NCLB was not intended to stop parents from refusing to have their child participate in the state testing system, but to prevent schools from "gaming" the system by choosing not to test low achieving kids. Additionally, even under the former

federal law, NCLB, it is not clear that Title I funds can be withheld and diverted to other purposes.

Finally, ESSA, the new federal law replacing NCLB, grants autonomy to states to develop policy regarding parental “selective non-participation”, or opt-outs. States are permitted to define participation rates while not sanctioning districts and the students they serve in the event that parents exercise their rights to refuse the state test. How states determine sanctions is clearly up to the individual states. This is one of the areas that the new federal law rightfully empowered states. It is possible, and necessary, that Connecticut can develop a plan much less harsh than the options presented at the present moment by the State Department of Education.