



January 7, 2016

The Honorable John King
Acting Secretary
Department of Education
400 Maryland Ave., SW
Washington, DC 20202

Dear Acting Secretary King,

I am writing to express my disappointment and frustration at the Dec. 22, 2015, letter signed by Acting Assistant Secretary Ann Whalen regarding participation rates on state tests and the U.S. Department of Education's planned enforcement of the 95 percent participation rate requirement.

This Dec. 22 letter signals intent to vigorously enforce the 95 percent test participation requirement and outlines consequences that include withholding funds. The letter goes against the spirit of a Dec. 18 letter from Acting Assistant Secretary Whalen, issued less than a week earlier, indicating that the department would fully support states, districts and schools as they transition to implementation of the new Every Student Succeeds Act. As you are well aware, while the new ESSA requires states to test 95 percent of students, it allows them to decide how they will factor this requirement into their accountability system. States are now working out how they will move to new accountability systems, and they need the flexibility and support offered in your Dec. 18 letter, not the threat of sanctions contained in the Dec. 22 letter.

Make no mistake, the opt-out movement—the reason that so many states did not meet the 95 percent participation requirement in 2014-15—was a referendum on this administration's policies that created the culture of overtesting and punishment. Your October 2015 "Testing Action Plan" admitted as much, and the overwhelmingly bipartisan passage of ESSA was a strong signal that the page must be turned on these policies.

With one year left in your administration, we ask that you step away from business as usual. America's schools don't need letters threatening to withhold much-needed funds. They need support as they work to figure out their new accountability systems, including how the 95 percent participation requirement will be included.

American Federation
of Teachers, AFL-CIO

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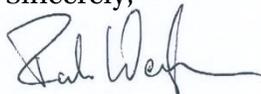
The **American Federation of Teachers** is a union of professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.



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Congratulations on your new role, and we look forward to working with you this year on ESSA implementation.

Sincerely,

A handwritten signature in black ink, appearing to read "Randi Weingarten". The signature is fluid and cursive, with a long horizontal stroke at the end.

Randi Weingarten
President

RW:sah opeiu#2 afl-cio