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N.Y. Teachers Union Sues Over Common Core Confidentiality Agreement

New York State United Teachers has sued the state education department this week over a state stipulation that teachers can be punished for discussing standardized-test items. According to the union, the stipulation is a violation of the teachers First Amendment rights, as well as their right to equal protection.

The lawsuit, filed on October 9 in federal court, includes five teachers who have administered or scored state exams aligned to Common Core State Standards. The *Albany Times Union* reports that the lawsuit focuses on grades 3-8 math and English tests.



Education Week reports, "NYSUT has been criticizing the state's common-core testing rollout for some time, especially regarding the education department's decision not to publicly release all of the test items after the test is completed and graded."

The union also asserts that the confidentiality agreement teachers are forced to sign, which states they will not reveal items or answers to colleagues or students, is nothing more than a "gag order."

"Teachers must be free to protect their students and speak out when they have concerns about state tests," NYSUT President Karen Magee said. "Instead, they are under a 'gag order' to be silent — and that is hurting children."

Teachers who administer the tests have long been subjected to confidentiality agreements at their local schools, but this year marks the introduction of a state-generated agreement, which warns that any violations could impact a teacher's employment and certification and could warrant potential criminal charges.

Many teachers are suspicious about the state's "gag order," viewing it as a way to suppress any further embarrassment for the controversial rollout of Common Core, since some of the questions on the first batch of tests drew considerable public criticism. "This is related to the main issue, which is whether teachers should be evaluated on these tests," says Adam Urbanski, president of the Rochester Teachers Association. "Is it fair to evaluate teachers on tests that they can't see or discuss?" Urbanski contends that the state's actions raise important questions regarding the integrity of the tests. "Why did they have so much concern about revealing the tests?" he says. "Is this a form of secrecy to cover something up?"

But the Education Department denies that the confidentiality agreement is a virtual "gag order."

"Teachers are absolutely free to talk about the portions of the test that have been released," said SED spokesman