

Deal eases teacher ‘gag order’ on math, English tests

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ALBANY - New York teachers will be able to discuss specific questions and answers on the state’s math and English exams after the information is released to the public, according to a legal settlement approved Tuesday.

U.S. Magistrate Judge Christian Hummel approved the deal Tuesday between the New York State United Teachers union and the state Education Department.

The agreement requires the state to formally acknowledge teachers can discuss any testing materials that have been publicly released, even if they’ve signed confidentiality agreements. Teachers, meanwhile, will still sign confidentiality agreements that prevent them from discussing questions while they are scoring exams.

It puts an end to a two-year legal battle over the gag orders, which teachers who graded the state’s grade 3-8 math and English exams had to sign in 2014.

Karen Magee, NYSUT president and former head of the Harrison teachers union, said the agreement “reflects progress.”

“Test questions planned for use in future exams will remain confidential,” Magee said in a statement. “However, educators will now be able to freely speak out, as they should, when they have concerns about questions already released to the public.”

Jonathan Burman, a spokesman for the state Education Department, said the settlement “clarifies” the department’s existing practice.

“The settlement approved today acknowledges the existing requirements of state Education Law and clarifies what has been the department’s policy and practice — which is that discussion of publicly released test material, after its public release, is not a violation of the confidentiality agreements,” he said in a statement.

The union first filed a lawsuit over the practice in Oct. 2014, with four teachers from Spencerport in suburban Rochester among the five plaintiffs.

Teachers scoring exams agreed they would “not use or discuss the content of secure test materials, including test questions and answers, in any classroom or other activities.”

The union argued that violated their first amendment rights to free speech.

Since then, the state Education Department has publicly released a greater share of questions on the tests, with a state law requiring it to release questions that affect students’ scores by June 1, with some exceptions.



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MIKE GROLL/AP

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