

# **Refusing In-School COVID Testing**

**Letter written December 4, 2020**

## **Update #3**

I am unable to sign the consent form from the NYC DOE for mandatory in-school COVID testing because, as it stands today, I have not been given sufficient information to exercise informed consent as to what I am agreeing to. Furthermore, I object to the fact that there are zero options for reasonable accommodations especially considering that I am being asked to consent to a medical procedure, performed outside of a medical setting, by a non-medical professional referred to as a “trained individual.”

### **Informed Consent**

The company NYC contracted for testing, Fulgent Genetics, owns a proprietary reference library of genetic information. I, and dozens of NYC teachers, have asked the NYCDOE, the UFT, and Mayor De Blasio if, by consenting to this test, we would also be consenting to Fulgent’s cataloguing our DNA in the company’s genetic library. Recently we received an “assurance” from NYC DOE’s general counsel that specimens are not used for anything but COVID testing. However, we have received no legal contractual documentation supporting this assurance. If Fulgent will be cataloguing my DNA in their for-profit library, I view this as an unwarranted use of my genetic information, an invasion of my privacy rights and an impermissible exploitation by that company for its own profit. To date, no one has explicated the terms of the contract or definitively assured me that the noted privacy concerns are unwarranted.

### **Reasonable Accommodation**

There has been no acceptable rationale provided as to why I cannot be tested for COVID by a medical professional of my choice to meet the testing criteria of the NYCDOE. By giving no option of reasonable accommodation, you assume that there is no physical, emotional or mental health reason that would prevent me from being able to subject myself to said test at my workplace, in a non-medical setting, with perfect

strangers I have never met. On December 4th NYSED posted that there are exemptions for staff members but the link to explain those exemptions was not functional.

### **“Trained Individual”**

We have been told the in-school COVID testing will be performed by a “trained individual.” There has been no explanation or description of just precisely what or who a “trained individual” is or isn’t. It seems obvious this person will not be a doctor, nurse, or a medical professional. The lack of transparency on this issue, when combined with the questionable security of my DNA, has created an environment where there is little-to-no trust in a situation that requires the utmost trust to enable me to provide my consent.

### **Conclusion**

NYC DOE has assured teachers in writing to attorney Michael Sussman on October 30, 2020, that the laboratories they work with will not use my specimen for anything other than COVID testing. A few days after this written assurance, the DOE published the assurance on their website. However, NYC H+H has not released the Specimen Collection Agreement between them and Fulgent Genetics, which is the governing document that would provide the evidence to prove, or disprove, these assurances. When attorney Michael Sussman asked NYC DOE General Counsel Chief of Staff Henry Bluestone Smith to provide this document, Mr. Smith replied that DOE does not possess it, only NYC H+H does. A freedom of information request filed with NYC H+H to release this document has already expired without NYC H+H’s compliance.

*Signature*

*Name*

*Date*