ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING ALLEGED TESTING IMPROPRIETIES

1.00 REGULATORY AUTHORITY

1.01 These rules shall be known as the Arkansas Department of Education Rules Governing Alleged Testing Improprieties.

1.02 These rules are enacted pursuant to the Arkansas State Board of Education's authority under Ark. Code Ann. §§ 6-11-105, 6-15-401 et seq., 6-17-410 and 25-15-201 et seq.

2.00 PURPOSE

The purpose of these rules is to identify a procedure for investigating and addressing complaints regarding alleged testing improprieties.

3.00 DEFINITION

3.01 "Conduct that violates the security or confidential integrity of a test or instrument" or "testing impropriety" means any departure from either the requirements established by the Commissioner of Education for the administration of the assessment or from the procedures specified in the applicable test administration materials, and may include, without limitation, the following acts or omissions:

3.01.1 Viewing secure assessment materials;

3.01.2 Duplicating secure assessment materials;

3.01.3 Disclosing the contents of any portion of secure assessment materials;

3.01.4 Providing, suggesting, or indicating to an examinee a response or answer to any secure assessment items;

3.01.5 Aiding or assisting an examinee with a response or answer to any secure assessment item;

3.01.6 Changing or altering any response or answer of an examinee to a secure assessment item;

3.01.7 Failing to follow the specified testing procedures or to proctor students;

3.01.8 Failing to administer the assessment on the designated testing dates;

3.01.9 Encouraging or assisting an individual to engage in conduct described in Section 3.01 or in Ark. Code Ann. § 6-15-438;

3.01.10 Failing to report to the appropriate authority that an individual has engaged in conduct set forth in Section 3.01 or in Ark. Code Ann. § 6-15-438;

3.01.11 Failing to follow the specified procedures and required criteria for alternate assessments; or

3.01.12 Failing to return the secured test booklets to the testing company in a timely manner.

4.00 GENERAL REQUIREMENTS

4.01 Violation of the security or confidential integrity of any test or assessment is prohibited.

4.02 Procedures for maintaining the security and confidential integrity of all testing and assessment instruments and procedures shall be specified in the appropriate test or assessment administration instructions.

4.03 The State Board of Education shall sanction a person who engages in conduct prohibited by these rules or by Ark. Code Ann. § 6-15-438.

4.04 Additionally, the State Board of Education may sanction a school district or school, or both, in which conduct prohibited by these rules or by Ark. Code Ann. § 6-15-438 occurs.

4.05 Sanctions imposed by the State Board of Education may include, without limitation, one (1) or more of the following:

4.05.1 Revocation, suspension, or probation of an individual's license;

4.05.2 Issuance of a letter of reprimand to a licensed individual to be placed in his or her state professional licensure file;

4.05.3 Additional training or professional development to be completed by a licensed individual within the time specified;

4.05.4 Additional professional development to be administered by the school district or public charter school to all licensed school district personnel involved in test administration within the time specified;

4.05.5 Issuance of a letter of warning to the school district or public charter school; and

4.05.6 Establishment of a school district or public charter school plan containing strict test security guidelines that will implement procedures to ensure the security and confidential integrity of all assessment instruments.

4.06 Professional development required pursuant to these rules as a result of violating test security or confidentiality may be in addition to professional development required for licensure.

5.00 REPORTING OF ALLEGED TESTING IMPROPRIETIES

5.01 Any organization or individual, to include employees of a public school and/or public school district, may file a written, signed report of alleged testing improprieties with the Department of Education.

5.01.1 Public schools and/or public school districts may file such a report by completing Form A (Attached).

5.01.2 Any other organizations or individuals may file such a report by completing Form B (Attached).

5.01.3 All reports should be filed immediately. All reports shall be filed not later than fourteen (14) days after the reporting party became aware of the alleged testing impropriety.

5.02 Written reports must be submitted to:

Office of Student Assessment
ATTN: Testing Impropriety
Arkansas Department of Education
Four Capitol Mall
Little Rock, Arkansas 72201

5.03 Written reports must include:

5.03.1 A statement that conduct violating the security or confidential integrity of a test or instrument has occurred;

5.03.2 Specific facts upon which the statement is based, including without limitation:

5.03.2.1 When the alleged violation occurred;

5.03.2.2 Where the alleged violation occurred;

5.03.2.3 How the alleged violation occurred, including specific statements of fact describing the acts or omissions alleged to constitute a violation;

5.03.2.4 Names of individuals who allegedly committed the violation, if known;

5.03.2.5 Names of individuals who possess information concerning the alleged violation; and

5.03.3 The signature of the individual filing the complaint. The Office of Student Assessment shall not process anonymous reports.

5.04 While testing is ongoing, nothing in these rules prohibits a public school or public school district from contacting the Office Student Assessment via telephone in an effort to immediately correct an alleged testing impropriety in a manner that would safeguard the validity and security of the ongoing test. The Office Student Assessment is hereby authorized to assist public schools or public school districts in this manner.

6.00 PROCESSING A REPORT OF ALLEGED TESTING IMPROPRIETIES

6.01 The Office of Student Assessment of the Department of Education shall receive and review reports of alleged testing improprieties filed pursuant to these rules.

6.02 The Director of the Office of Student Assessment, or his or her designee, shall conduct an initial review of each report and determine whether the report should be processed according to these rules or forwarded to the Professional Licensure Standards Board for disposition. Accordingly, the Director of the Office of Student Assessment, or his or her designee, may:

6.02.1 Forward reports involving alleged testing improprieties committed by a licensed administrator or teacher that involve a potential violation of the Code of Ethics for Arkansas Educators to the Professional Licensure Standards Board for processing under the procedures of the Professional Licensure Standards Board by completing the Professional Licensure Standards Board complaint form and attaching the report thereto;

6.02.2 For alleged testing improprieties that do not involve potential violations of the Code of Ethics for Arkansas Educators pursuant to Section 6.02.1 of these rules, the Office of Student Assessment may recommend to the State Board of Education the imposition of the sanctions set forth in Sections 4.05.1 through 4.05.6 of these rules; or

6.02.3 Informally and administratively dispose of an alleged testing impropriety if the impropriety can be fully corrected during the testing process without adversely impacting the validity and security of the ongoing test.

6.03 Alleged testing irregularities concerning licensed administrators and teachers referred to the Professional Licensure Standards Board by the Office of Student Assessment will be processed by the Professional Licensure Standards Board in accordance with the procedures adopted by the Professional Licensure Standards Board and the State Board of Education.

6.04 All other alleged testing irregularities shall be processed in the following manner:

6.04.1 Within twenty-one (21) days of receiving a report of an alleged testing impropriety, the Office of Student Assessment shall forward the report to the superintendent of the public school district or open-enrollment public charter school and to any licensed administrator or teacher who is alleged to have committed a violation pursuant to these rules ("accused licensee").

6.04.2 Within forty-five (45) days of receiving a report of an alleged testing impropriety from the Office of Student Assessment, the superintendent of the public school district or open-enrollment public charter school, or accused licensee, shall respond, in writing, to the Office of Student Assessment, indicating the following:

6.04.2.1 Whether the school district or open-enrollment public charter school investigated the report. If the school district or open-enrollment public charter school investigated the report, a copy of the report of investigation shall be attached to the response;

6.04.2.2 Whether the report is founded or unfounded in whole or in part; and

6.04.2.3 If founded in whole or in part, the actions taken by the public school district or open-enrollment public charter school in response to the report.

6.04.3 If the Office of Student Assessment requires additional information from the public school district, open-enrollment public charter school, or accused licensee, the Office of Student Assessment may request, in writing, such additional information from the public school district, open-enrollment public charter school, or accused licensee. The request for additional information must specifically list the additional information requested and must be provided to the superintendent of the public school district or open-enrollment public charter school, or accused licensee.

6.04.4 The public school district, open-enrollment public charter school, or accused licensee, shall respond to the request for additional information within thirty (30) days of receiving the request from the Office of Student Assessment or indicate its refusal to respond.

6.04.5 Within sixty (60) days of receiving all required information from the public school district, open-enrollment public charter school, or accused licensee, the Office of Student Assessment shall notify, in writing, the superintendent of the public school district, open-enrollment public charter school, or accused licensee, of its recommended disposition. The recommended disposition from the Office of Student Assessment may state the following:

6.04.5.1 The complaint is unfounded and the case should be closed;

6.04.5.2 The complaint is founded but no further corrective action is necessary; or

6.04.5.3 The complaint is founded and the Office of Student Assessment recommends one or more of the following to the State Board of Education:

6.04.5.3.1 That the State Board of Education should revoke, suspend or place on probation an individual's license;

6.04.5.3.2 That the State Board of Education should issue a letter of reprimand to a licensed individual to be placed in his or her state professional licensure file;

6.04.5.3.3 That the State Board of Education require a licensed individual to complete additional training or professional development within the time specified;

6.04.5.3.4 That the State Board of Education require the public school district or open-enrollment public charter school to administer additional professional development to all licensed personnel involved in test administration within the time specified;

6.04.5.3.5 That the State Board of Education issue a letter of warning to the public school district or open-enrollment public charter school;

6.04.5.3.6 That the State Board of Education require a public school district or open-enrollment public charter school to establish a plan that contains strict test security guidelines that will implement procedures to ensure the security and confidential integrity of all assessment instruments; or

6.04.5.3.7 A combination of the above.

6.04.6 Within thirty (30) days of receiving the recommended disposition of the Office of Student Assessment, the superintendent of the public school district or open-enrollment public charter school, or accused licensee, shall notify, in writing, the Office of Student Assessment whether the public school district, open-enrollment public charter school, or accused licensee agrees with the recommended disposition or wishes to appeal the recommended disposition to the State Board of Education.

6.04.6.1 Failure of a public school district, open-enrollment public charter school, or accused licensee to respond to the Office of Student Assessment's recommended disposition within thirty (30) days shall constitute a waiver of the right to appeal such recommended disposition.

6.04.6.2 Requests for appeal of the recommended disposition to the State Board of Education shall include a brief statement of the reasons why the recommended disposition should not be adopted.

6.04.7 If a public school district, open-enrollment public charter school, or accused licensee does not appeal the recommended disposition of the Office of Student Assessment, or does not file such an appeal within thirty (30) days, the recommendation of the Office of Student Assessment shall become final.

6.04.8 If a public school district, open-enrollment public charter school, or accused licensee appeals the recommended disposition of the Office of Student Assessment, the State Board of Education shall hear the appeal within sixty (60) days of receipt of the notice of appeal. Through mutual agreement, the public school district, open-enrollment public charter school, or accused licensee and the Office of Student Assessment may extend the date of the hearing for an additional thirty (30) days.

6.04.9 Upon written request by an accused licensee, the public school district or open-enrollment public charter school may respond to all inquiries and

allegations on behalf of the accused licensee and may represent the accused licensee at all hearings before the State Board of Education.

7.00 STATE BOARD HEARING PROCEDURES

7.01 The following procedures shall apply to State Board of Education hearings:

7.01.1 Each party will have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the representative of the Department of Education. The Chairperson of the State Board of Education may, only for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

7.01.2 Each party will be given thirty (30) minutes to present their cases, beginning with the representative of the Department of Education. The Chairperson of the State Board of Education may, only for good cause shown and upon the request of either party, allow either party additional time to present their cases.

7.01.3 Every witness giving oral testimony must be sworn under oath by the court reporter and shall be subject to direct examination, cross examination, and questioning by the State Board of Education.

7.01.4 For the purposes of the record, documents offered during the hearing by the Department of Education shall be clearly marked in sequential, numeric order (1, 2, 3).

7.01.5 For the purposes of the record, documents offered during the hearing by the appealing public school district, open-enrollment public charter school or accused licensee shall be clearly marked in sequential, alphabetic letters (A, B, C).

7.01.6 The Department of Education shall have the burden of proving, by a preponderance of the evidence, that the alleged violation(s) occurred and that the recommended disposition from the Office of Student Assessment be adopted.

7.02 The State Board of Education may:

7.02.7.1 Adopt the recommended disposition of the Office of Student Assessment;

7.02.7.2 Modify the recommended disposition of the Office of Student Assessment in accordance with Sections 4.05.1 through 4.05.6 of these rules; or

7.02.7.3 Grant the appeal of the public school district, open-enrollment public charter school or accused licensee.

7.03 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education and each appealing party within fourteen (14) days of the hearing.

FORM A
Testing Impropriety Report Form
For School District Reporting
Attach all supporting documents to this document

District Name:
School Name:
LEA #:
District Test Coordinator:
Campus Test Coordinator:
Principal's Name:
Test Administrator Name:
Date of Alleged Impropriety:
Name of Person Completing Form:
Phone Number and E-Mail Address of Person Completeing Form:
Signature of Individual Completing Form:

Complete the Appropriate Information Below

Assessment	Administration	Grade

What are the names of the individuals involved in the alleged impropriety?

Description of alleged impropriety (Please see required components on Page 2; Use additional sheets if necessary):

Description of district action taken regarding alleged impropriety:

Description of district procedures that will be implemented to prevent incident/irregularity from occurring again:

Received by: *Date Received:*

Melody Morgan
Director, Student Assessment
Four Capitol Mall Room 305B
Little Rock, AR 72201-1071
Phone (501) 682-4558
Fax (501) 682-4886

Required Components of Testing Impropriety Reporting

☐ When did the alleged violation occur?

☐ Where did the alleged violation occur?

☐ How did the alleged violation occur? (Include specific statements of fact describing the acts or omissions alleged to constitute a violation)

☐ What are the names of individuals who allegedly committed the violation, if known?

☐ What are the names of individuals who possess information concerning the alleged violation?

☐ Are all supporting documents attached to this form?

☐ Did the individual who filed this complaint sign on Page 1?

Optional Components of Testing Impropriety Reporting

☐ What actions, if any, has the school or school district taken in response to the alleged impropriety?

☐ Was a report of investigation completed by the school or school district? (If so, please attach the report and all statements).

FORM B
Testing Impropriety Report Form
For Individual Reporting
Attach all supporting documents to this document

District Name:
School Name:
Principal's Name:
Date of Alleged Impropriety:
Name of Individual Completing Report:
Phone Number and E-Mail Address of Person Completeing Form:
Signature of Individual Completing Form:

Complete the Appropriate Information Below

Assessment	Administration	Grade

What are the names of the individuals involved in the alleged impropriety?

Description of alleged impropriety (Please see required components on Page 2; Use additional sheets if necessary):

Received by: *Date Received:*

Melody Morgan
Director, Student Assessment
Four Capitol Mall Room 305B
Little Rock, AR 72201-1071
Phone (501) 682-4558
Fax (501) 682-4886

Required Components of Testing Impropriety Reporting

- ☐ When did the alleged violation occur?
- ☐ Where did the alleged violation occur?
- ☐ How did the alleged violation occur? (Include specific statements of fact describing the acts or omissions alleged to constitute a violation)
- ☐ What are the names of individuals who allegedly committed the violation, if known?
- ☐ What are the names of individuals who possess information concerning the alleged violation?
- ☐ Are all supporting documents attached to this form?
- ☐ Did the individual who filed this complaint sign on Page 1?

~~Governing the Investigation of Alleged Testing Improprieties~~

~~1.0 REGULATORY AUTHORITY:~~

~~1.01 These regulations shall be known as the Arkansas Department of Education Regulations Governing the Investigation of Alleged Testing Improprieties.~~

~~1.02 These regulations are enacted pursuant to the State Board of Education's Authority under Arkansas Code Annotated 6-11-105 (Supp. 1989) and 6-15-401 et seq. (1987).~~

~~2.00 PURPOSE:~~

~~2.01 The purpose of these regulations is to identify a procedure for investigating complaints regarding alleged testing improprieties.~~

~~3.00 DEFINITIONS:~~

~~4.00 FILING A COMPLAINT:~~

~~4.01 An organization or individual may file a written, signed complaint with the Arkansas Department of Education.~~

~~4.02 The complaint must include:~~

~~a. a statement that a violation of the Testing Security Guidelines has occurred;~~

~~b. the facts on which the statement is based; and~~

~~c. the signature of the individual filing the complaint.~~

~~5.00 PROCESSING A COMPLAINT:~~

~~5.01 Preliminary Arkansas Department of Education Actions~~

~~5.01.1 Complaints received consistent with the scope of this policy shall be referred to the Attorney's office for subsequent investigation and recommendation within sixty (60) calendar days or less after receipt of the complaint, except that an extension of the time limit may be granted if it is determined by the Attorney's Office that exceptional circumstances exist with respect to a particular complaint.~~

~~5.01.2 Within ten (10) working days of receipt of a complaint, the Attorney's office shall have arranged for a team to conduct an investigation of the allegations. The complainant and district under investigation shall be notified in writing of the team assigned and general investigation process.~~

~~5.02 Team Composition and Charge~~

~~The team shall include no fewer than three (3) nor more than five (5) persons from any Division of the Arkansas Department of Education, or any other person who is deemed necessary to expedite the investigation and resolve the issue(s) of complaint. The team shall be charged with making a full investigation of the alleged violations.~~

~~5.03 Team Expenses~~

~~The costs of travel and other reasonable expenses accrued by team members in the course of the investigation shall be reimbursed in accordance with the established rates for Arkansas Department of Education employees.~~

~~6.00 CONDUCTING THE INVESTIGATION~~

~~6.01 Time Limit~~

~~The investigation shall be completed and a written report of the findings and any corrective actions issued within sixty (60) calendar days of receipt of the complaint. Should an extension of the time be necessary, the parties to the investigation shall be notified in writing of that fact with a projected date for issuance of a report.~~

~~6.02 Fact-finding Activities~~

~~6.02.1 The investigation team shall interview the complainant at a site away from any local school district's buildings.~~

~~6.02.2 The complainant shall be allowed to make a full statement of the complaint at the initial interview. Once the complainant has completed his/her statement, team members may further inquire by asking direct questions.~~

~~6.02.3 If the team believes cause exists to conduct further investigation, the team may proceed accordingly with additional interviews.~~

~~6.02.4 Interviews~~

~~a. A minimum of three (3) team members shall be present in each interview. Sufficient notes shall be made or machine recorded to accurately reflect the substance of the interview. A court reporter may be retained if deemed necessary by the Attorney's Office.~~

~~b. Interviews shall be conducted with any persons whom the team determines may be able to provide information to expedite the investigation and/or resolve the issues(s) of the complaint. Such individuals may include, but are not limited to, the complainant, all certified personnel of the district, parents, students, any local school board, and any other individual who may have knowledge regarding the complaint.~~

~~6.02.5 The team will not disclose the identity of the complainant while investigating and conducting interviews. However, the team is not responsible if subsequent interviewees discover the identity of the complainant by means other than through the investigative team.~~

~~7.00 THE REPORT:~~

~~7.01 Content~~

~~At the close of the investigation, a report shall be prepared by the team leader in cooperation with the other members and submitted to the Attorney's Office. The report shall include:~~

~~a. a summary of the substance of the allegations in the complaint and the name of the individual, group, or agency making the complaint;~~

~~b. a summary of the activities conducted by the investigating team;~~

~~c. a summary of the findings of fact and conclusions of the team regarding the allegations.~~

~~7.02 Dissemination~~

~~A copy of the report shall be forwarded to the complainant and party investigated within sixty (60) calendar days of receipt of the complaint by the Arkansas Department of Education, or by the terms of extension of the time limit if one was granted. A copy will be placed on file in the record maintained by the Arkansas Department of Education.~~

~~8.00 RECOMMENDED ACTION:~~

~~8.01 The Attorney's office shall prepare preliminary recommendations, based upon the investigative team's report, to be made to the Director.~~

~~8.02 The Director will review the investigative team's report and the Attorney's office recommendation and decide what course of action, if any, should be taken. The Director will report the recommended action to the State Board.~~

~~8.03 The Director may refer the testing impropriety to the Coordinator of Teacher Education and Licensure to investigate possible action against an individuals(s') certificate~~