

**ENSURING THE
INTEGRITY OF THE
NEW YORK STATE
TESTING PROGRAM**

MARCH 19, 2012

Report of
Investigation

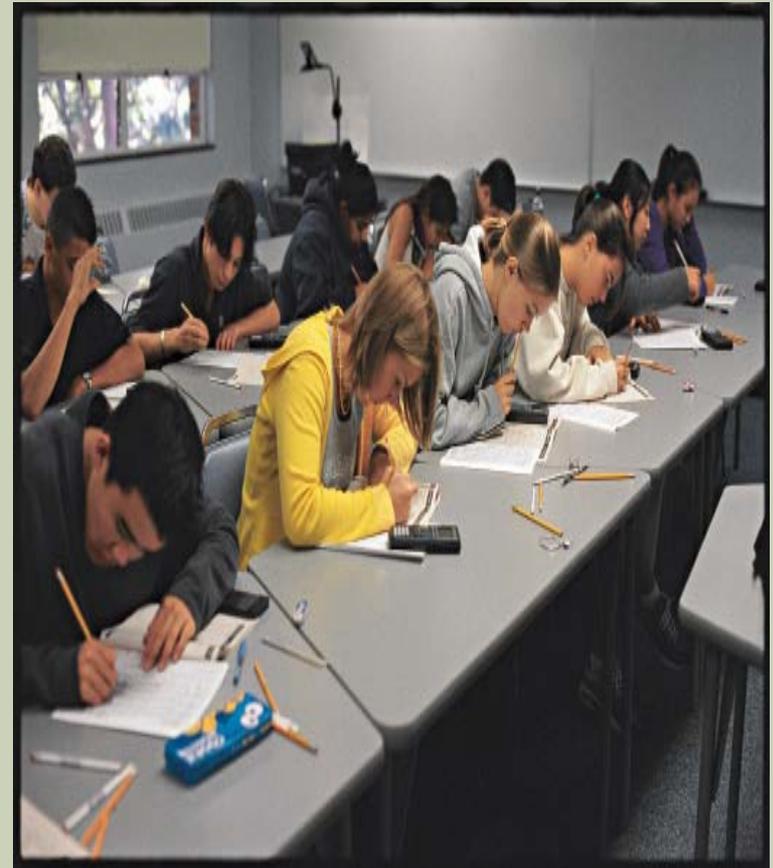
Henry M. Greenberg
Special Investigator
to the New York
State Education
Department

INTRODUCTION

- On November 14, 2011, Commissioner John B. King, Jr. appoints Special Investigator.
- Two-fold charge:
 1. Review State Education Department's ("SED") procedures for handling reports of improprieties.
 2. Recommend ways SED can improve capacity and competency in this area.

BACKGROUND OF INVESTIGATION

- **SED oversees over 5,000,000 state assessments every year.**
 - **Grades 3 through 8 ELA and Mathematics Tests**
 - **Grades 4 and 8 Science Tests**
 - **Regents Examinations**
 - **Regents Competency Tests**
 - **New York State Alternate Assessments (“NYSAP”)**
 - **Language Assessment Battery–Revised (“LAB-R”)**
 - **New York State Alternative Assessments (“NYSAA”)**
 - **New York State English as a Second Language Achievement Test (“NYSESLAT”)**



ASSESSMENTS ARE USED FOR SEVERAL PURPOSES

Measure
student
achievement
and provide
services

Evaluate
teacher and
principal
effectiveness

Hold
accountable
schools and
districts for
their
performance

Planning

SED'S OBJECTIVE IS TO ENSURE TEST RESULTS ARE BEYOND REPROACH

“We are relying more than ever on state exams. ... If we’re going to use the tests in these ways, we need to be absolutely certain that our system is beyond reproach ... [and] ensure that our tests are not compromised in any way.”

Regents Chancellor Merryl H. Tisch

THE INVESTIGATION

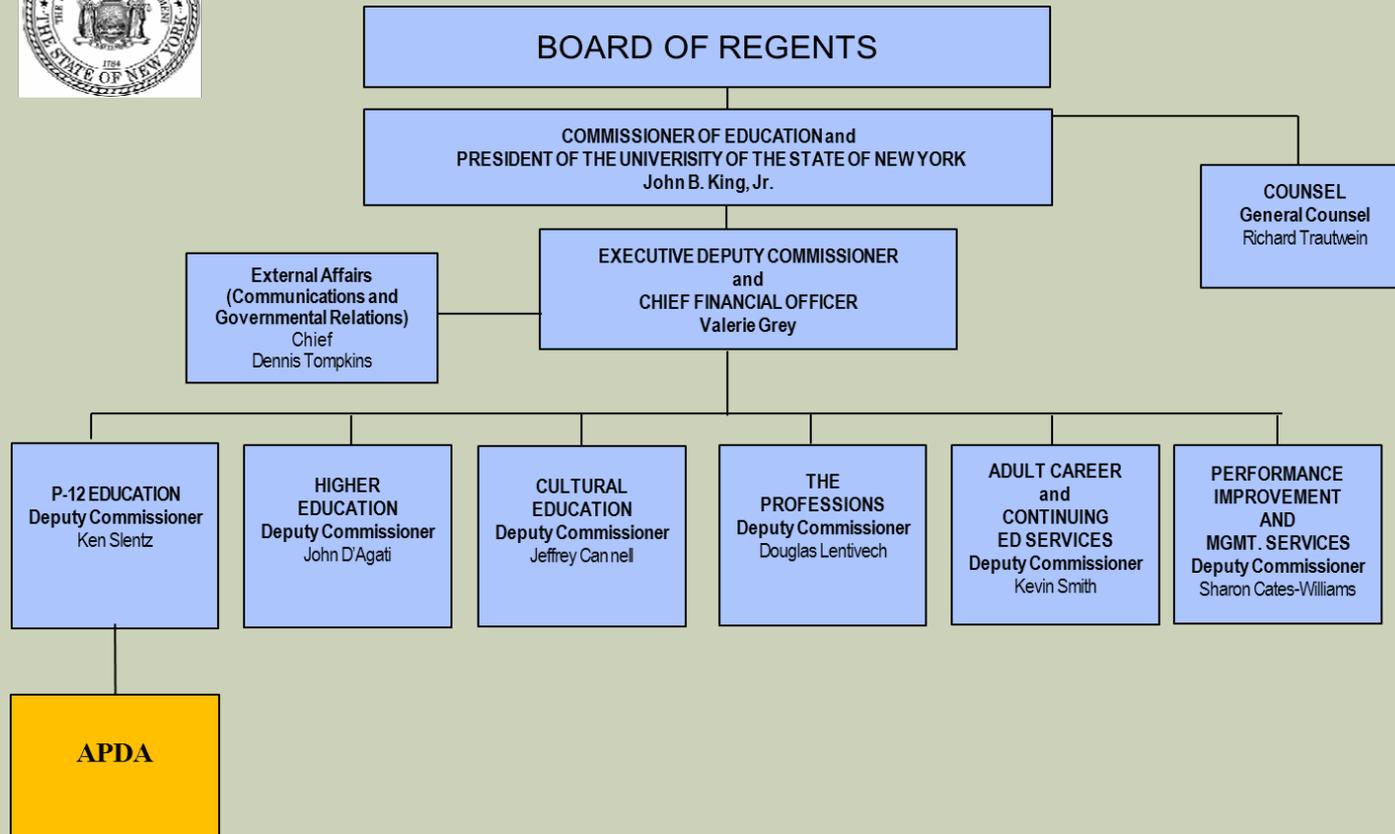
- **Over the past four months:**
 - **Interviewed SED staff and education officials.**
 - **Examined SED's case files, guidance materials, manuals, memoranda, relevant statutes and regulations, and other documents.**
 - **Reviewed other states' best practices, guidance materials, manuals, applicable statutory and regulatory schemes.**

FOCUS ON THE OFFICE OF ASSESSMENT POLICY, DEVELOPMENT AND ADMINISTRATION (“APDA”)



NEW YORK STATE EDUCATION DEPARTMENT

ORGANIZATION CHART



3 BASIC RESPONSIBILITIES OF APDA

POLICY
DEVELOPMENT

ADMINISTRATION

**COMPLIANCE
AND FOLLOW-UP**

- APDA does not investigate allegations of improprieties.
- Instead, APDA relies on local education agencies (“LEA”) and the District Superintendents from the State’s 37 BOCES.

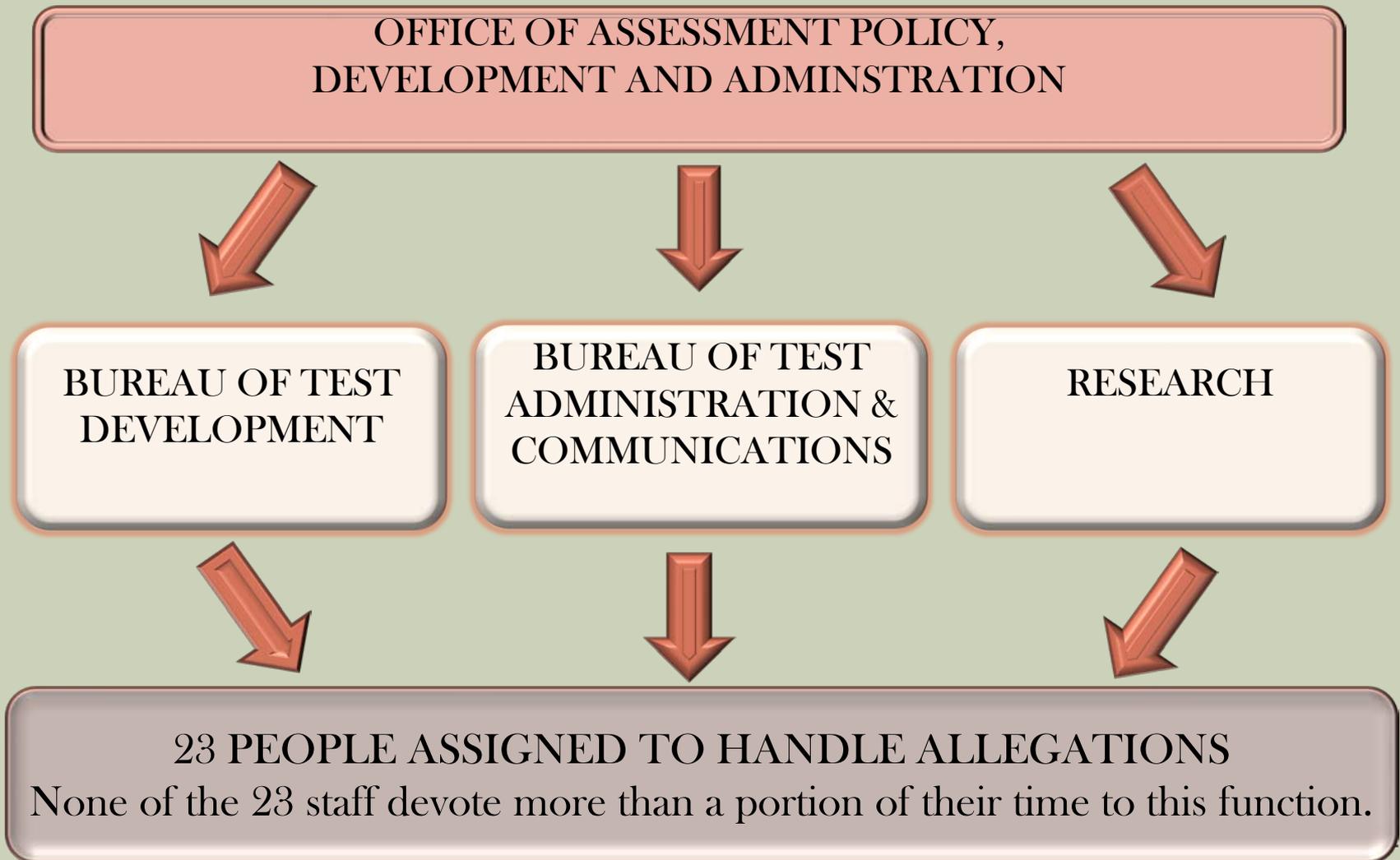


FINDINGS

I. APDA CANNOT ADEQUATELY DETECT & DETER TESTING IRREGULARITIES

- **APDA's mission and ethos is ill-suited to oversee and conduct investigations.**
- **Personnel lack the requisite training, experience and resources to perform such functions.**

- Delegation of test integrity responsibilities is **too diffuse**.



Decision-making is often made on an *ad hoc* **basis**, without the benefit of written policies and procedures and quality control mechanisms.

II. APDA'S INTAKE AND DATA GATHERING SYSTEMS ARE INADEQUATE

- APDA's allegations database is incomplete and unreliable.

Reports Of Testing Irregularities 2006 - 2011					
School Year	2006 - 07	2007 - 08	2008 - 09	2009 - 10	2010 - 11
Number of Reported Allegations	102	108	127	118	108
Number of Verified Allegations	54 (53%)	56 (52%)	87 (69%)	54 (46%)	27 (25%)

- Important information is not collected or is inadequately analyzed.

Elementary Incident Reports

School yr of test	<input type="text"/>	
Date Submitted	<input type="text"/>	
TYPE	<input type="text"/>	
DISTRICT_CD	<input type="text"/>	
DISTRICT_NAME	<input type="text"/>	
BEDS_CD	<input type="text"/>	Type of School: <input type="text"/>
SCHOOL_NAME	<input type="text"/>	
Test	<input type="text"/>	Grade <input type="text"/>
Disposition	<input type="text"/>	STATUS <input type="text"/>
Allegation	<input type="text"/>	
NYC:	<input type="text"/>	
	SCI# Condon: <input type="text"/>	OSI# McLaren: <input type="text"/>
SOURCE	<input type="text"/>	First entry <input type="text"/>
		DB update: <input type="text"/>
REFERRED TO	<input type="text"/>	
Report Due Date:	<input type="text"/>	SCORE OUTCOME <input type="text"/>
Report Received Date:	<input type="text"/>	STAFF OUTCOME <input type="text"/>
Plan Due:	<input type="text"/>	<input type="text"/>

- **Intake systems contribute to underreporting and underestimation of information.**
 - **Antiquated regulations require only the school principal to report fraud.**
 - **APDA uses a paper-based primary portal (fax machine) for allegations.**

- **The database does not produce summary reports that make possible analysis of test security trends over time.**



- **APDA's tracking system for allegations is paper-based and ineffective.**

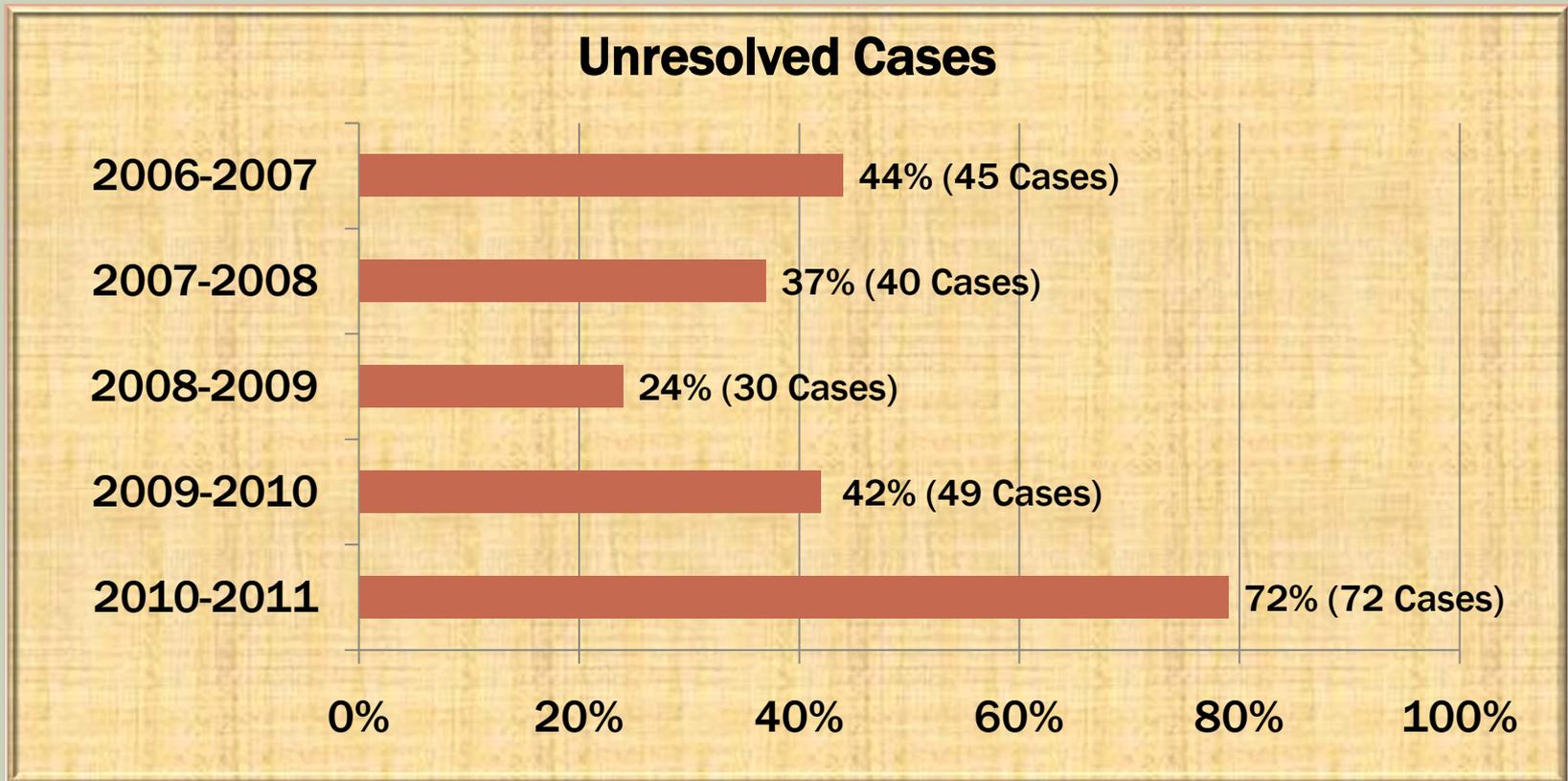


III. APDA PROVIDES INSUFFICIENT SUPPORT TO LEAS & DISTRICT SUPERINTENDENTS

- **No relevant training offered.**
- **No policies and procedures for the conduct of investigations.**
- **One-year document retention policy is inadequate to preserve potential evidence.**

IV. APDA PASSIVELY AND INCONSISTENTLY OVERSEES LOCAL INVESTIGATIONS

- **LEAs and BOCES District Superintendents are not held accountable to conduct vigorous and objective investigations.**
- **Case files lack documentation or evidence of follow-up.**

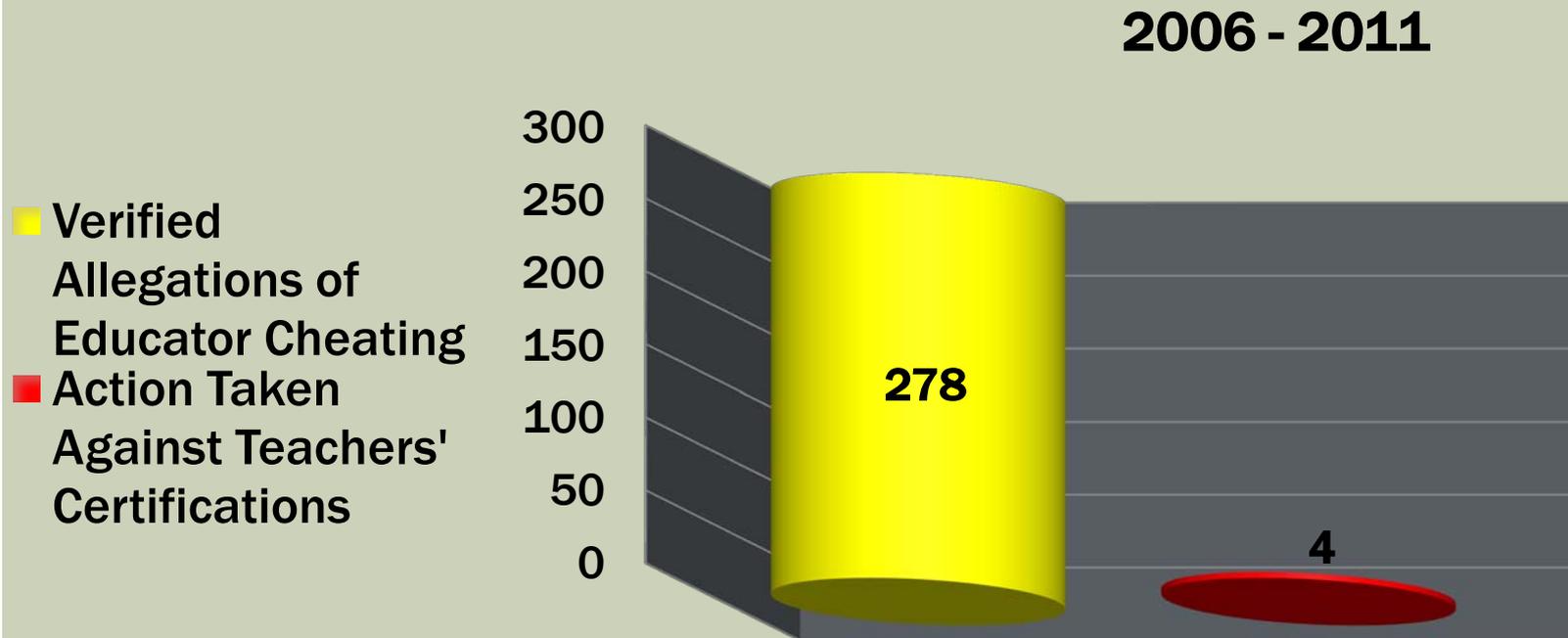


- A high percentage of older cases remain open or otherwise unresolved.

V. NO STATEWIDE STANDARDS

- No testing code of ethics.
- No test security oath is required to be taken by test administrators.
- Insufficient guidance and warnings specifying types and consequences of misconduct.

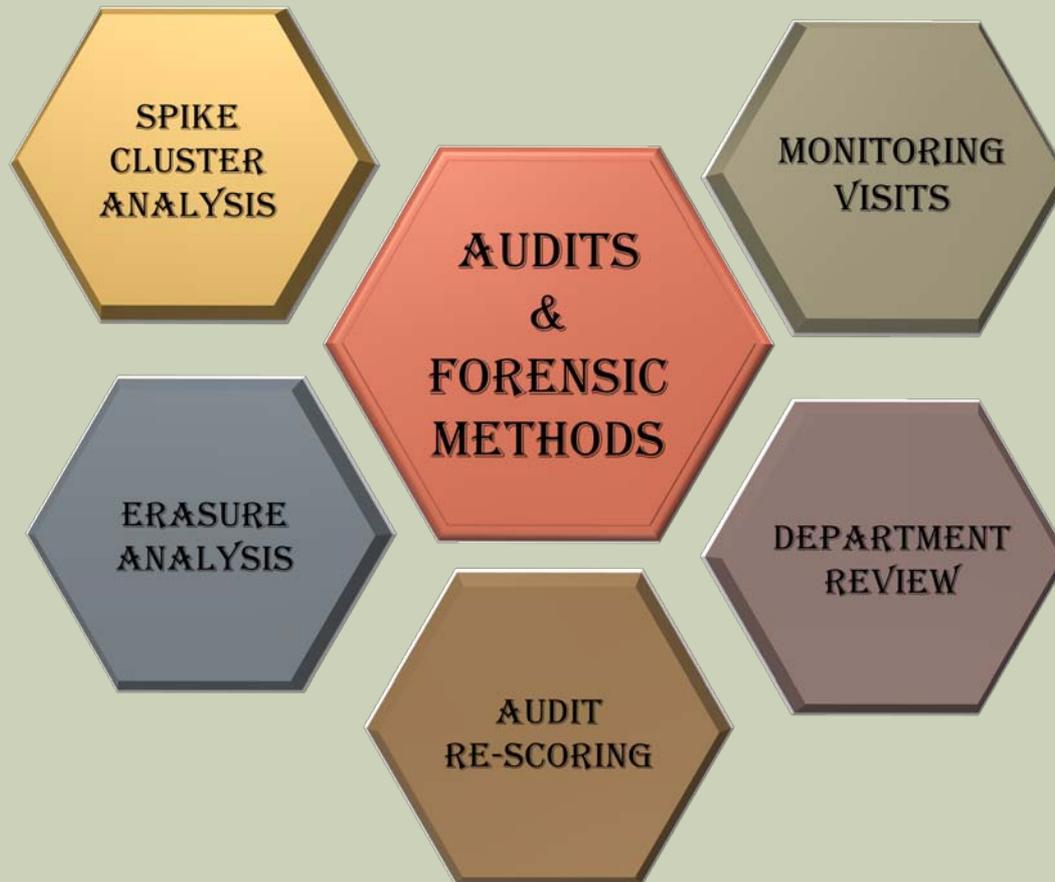
- **Part 83 of the Commissioner's Regulations is rarely utilized to investigate and administratively prosecute educator cheating.**



- **No uniform standards for determining appropriate sanctions.**
- **In confirmed cases of test tampering, SED requires only that the guilty party be prohibited from participating in future assessments.**
- **This does not promote the goals of deterrence or prevention.**



VI. SED INEFFECTIVELY MAKES USE OF AUDITS & DATA FORENSICS



- **No strategic plan, policies or procedures exist for audits.**
- **The present deployment of audits does not address the full range of test integrity issues presented by high-stakes assessments.**
- **Nor does it adequately detect and deter unethical practices.**

VII. APDA'S TEST INTEGRITY EFFORTS ARE INVISIBLE TO THE PUBLIC

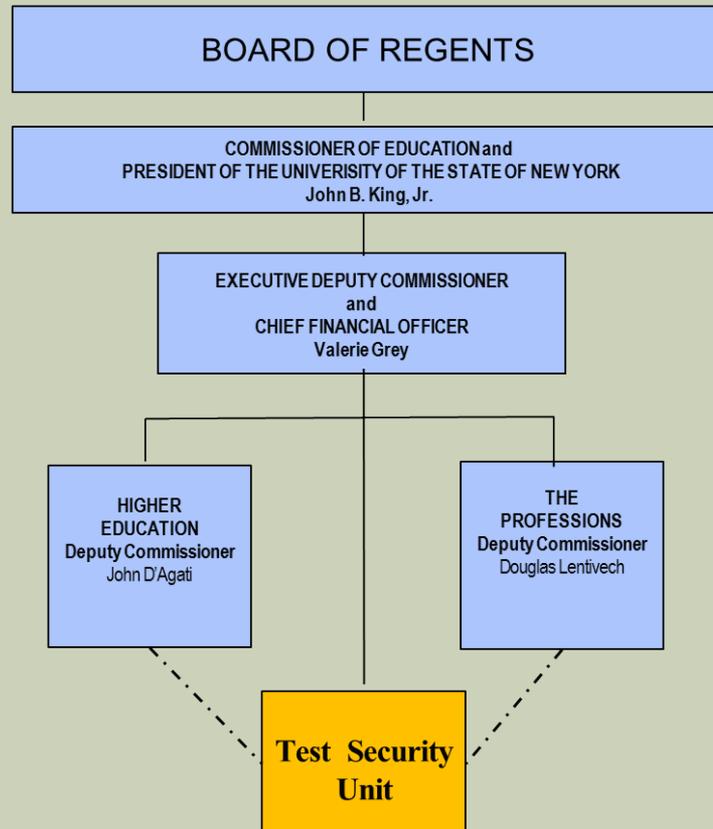
- **No public reporting of APDA's Activities.**
- **No public reporting of confirmed cases of test tampering.**
- **No public reporting of SED's audits.**

RECOMMENDATIONS

I. ESTABLISH A NEW TEST SECURITY UNIT



NEW YORK STATE EDUCATION DEPARTMENT ORGANIZATION CHART



- **First steps for the New Test Security Unit (“TSU”).**
 - **Identify necessary skills and training for all personnel.**
 - **Staff with 5 to 10 FTEs.**
 - **Establish written policies and procedures and quality control mechanisms.**
 - **Implement other recommendations.**

- **TSU should aggressively police unethical practices.**
 - **Conduct investigations of serious allegations, rather than rely on LEAs and BOCES District Superintendents.**
 - **In appropriate cases, take action against certifications pursuant to Part 83 of the Commissioner's Regulations.**

II. INSTITUTE COMPREHENSIVE STATE-OF-THE-ART INTAKE & DATA-GATHERING SYSTEMS

- Create an online incident reporting process.

The screenshot shows a web browser window displaying the Texas Education Agency's Online Incident Report Form. The browser's address bar shows the URL: <http://www.tea.state.tx.us/student.assessment/security/incidents/>. The page features a navigation menu with links for Agency Info, District Information, A - Z Index, and Help. The main content area is titled "Online Incident Report Form" and includes a search bar, a "Search" button, and a link to "Advanced Search". The text explains the reporting process, stating that districts must provide all required information and supporting documentation. It also mentions that upon completion, submitters will receive confirmation and an incident identification number. A link is provided to submit an online incident report. The page also includes a section for "Additional Information Regarding the Online Form" and a list of required information for the report.

Agency Info | District Information | A - Z Index | Help

Online Incident Report Form

[Student Assessment Home](#) | [Contact Student Assessment](#) | [Printing PDFs](#)

The online incident reporting process has been designed to provide district testing coordinators and/or their designees an easy and efficient means to report testing irregularities. To complete the process of submitting an incident report to TEA, districts must provide all the required information in the online form in addition to submitting the required supporting documentation (i.e., signed statements from the individuals involved). Users will be provided with an opportunity to attach supporting documentation so all submission requirements can be fulfilled at one time.

Because statements from the individuals involved require a signature, districts are encouraged to scan these signed statements and save them as a portable document file (PDF). If the district has this capability, the scanned PDF file(s) can be easily attached during the submission process.

Upon completion of the online form, submitters will receive confirmation that their report has been accepted, and an incident identification number will be issued for tracking purposes. **If you encounter difficulty using the online incident reporting system, please contact a member of the Security Task Force at 512-463-9536 for assistance.**

[Click here to submit an online incident report](#) (external link)

Additional Information Regarding the Online Form

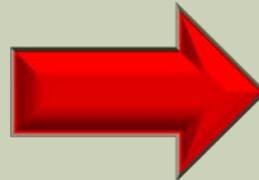
Currently, this tool does not permit users to correct or update report information once it has been submitted and an incident identification number has been issued. Submitters are **strongly** encouraged to have all information available regarding the incident **BEFORE** starting the reporting process. If districts need to update or change information once a report has been submitted, they should contact the Security Task Force at 512-463-9536 and reference the incident identification number received when the report was originally submitted.

Information that will be required when completing an online report includes:

- the campus where the incident occurred;
- test administration information (which assessment, grade level, subject, etc.);

- Mandate reporting of allegations to SED by any person who learns of a security breach.
- Protect from retribution persons who report security breaches.

- **Transition from paper to electronic tracking system for allegations.**



- **Document and track allegations from intake through final disposition.**
- **Prepare a written summary for each verified allegation.**
- **Collect in database all relevant information.**
- **Utilize software that maximizes capacity to analyze data and produce summary reports.**

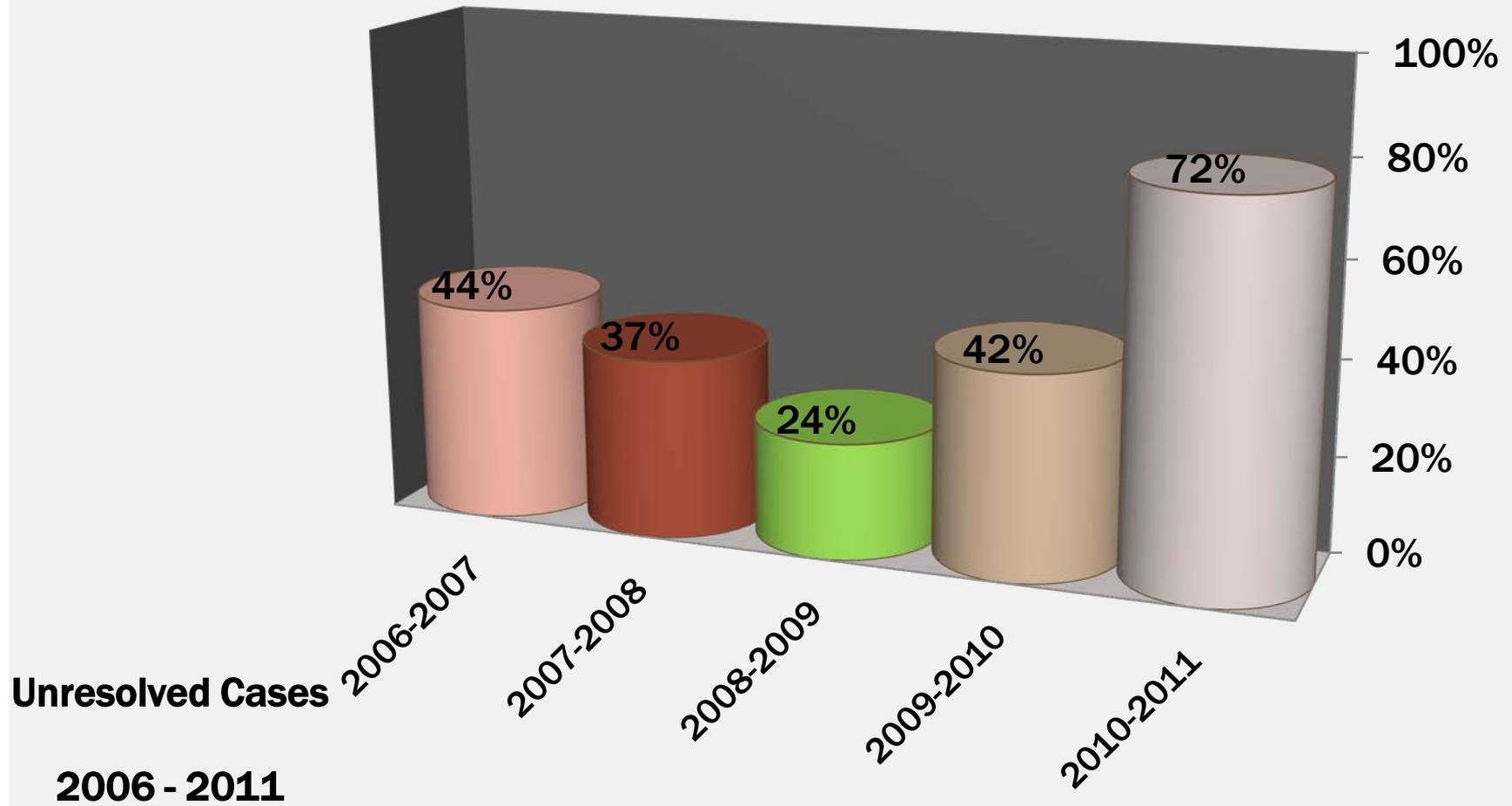
III. SUPPORT LEAS & BOCES DISTRICT SUPERINTENDENTS

- Provide training through webinars, written guidance and other means.
- Create a webpage dedicated to testing irregularities.
- Develop model policies and procedures.
- Lengthen document retention requirements from one to up to five years.

IV. AGGRESSIVELY OVERSEE LOCAL INTEGRITY INVESTIGATIONS

- **Hold LEAs accountable for compliance with state-wide test integrity standards.**
- **Require LEAs and BOCES District Superintendents to designate in advance “integrity officers”.**
- **Insist investigations be completed within an established timeframe.**

- Resolve all open files for allegations reported to SED over the past five years.



- Require corrective action plans.

Corrective Action Plan

Instructions: Districts may use this form to fulfill the documentation requirements for the Corrective Action Plan (CAP) and for reporting disciplinary actions taken against educator(s). A Corrective Action Plan **must** be submitted to TEA for irregularities involving the **loss of secure materials** or for incidents classified as a **potential referral to the Educator Certification and Standards Division**. Please complete the following information and submit to the Student Assessment Division by fax at 512-463-9302. The signed form may also be scanned into an electronic format and submitted via e-mail to testsecurity@tea.state.tx.us.

1. District Information

District	Campus	Date
First Name	Last Name	Position/Title

2. Incident Information

Year	Administration	Test	Corresponding Incident ID (if available)

A. Description of Incident – Please provide a brief summary of the irregularity, including a description of how and why the incident occurred. **(NOTE: You do not need to complete this section if an accurate description has already been included in an incident report submitted to TEA and an Incident ID has been indicated above.)**

3. Corrective/Disciplinary Action Taken

A. Description of Disciplinary Action Taken (if any) – Please describe any local actions taken against educator(s) as a result of the district’s investigation.

B. Description of Corrective Action Taken – Please provide a description of the specific procedure(s) that will be implemented to prevent future occurrences of this type of incident.

Signature of Superintendent/ Chief Administrative Officer	Printed Name of Superintendent/ Chief Administrative Officer
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V. ESTABLISH STATEWIDE TEST INTEGRITY STANDARDS

- Promulgate a legally enforceable testing code of ethics.

Testing Code of Ethics

Introduction

In North Carolina, standardized testing is an integral part of the educational experience of all students. When properly administered and interpreted, test results provide an independent, uniform source of reliable and valid information, which enables:

- *students* to know the extent to which they have mastered expected knowledge and skills and how they compare to others;
- *parents* to know if their children are acquiring the knowledge and skills needed to succeed in a highly competitive job market;
- *teachers* to know if their students have mastered grade-level knowledge and skills in the curriculum and, if not, what weaknesses need to be addressed;
- *community leaders and lawmakers* to know if students in North Carolina schools are improving their performance over time and how the students compare with students from other states or the nation; and
- *citizens* to assess the performance of the public schools.

Testing should be conducted in a fair and ethical manner, which includes:

Security

- assuring adequate security of the testing materials before, during, and after testing and during scoring
- assuring student confidentiality

Preparation

- teaching the tested curriculum and test-preparation skills
- training staff in appropriate testing practices and procedures
- providing an appropriate atmosphere

Administration

- developing a local policy for the implementation of fair and ethical testing practices and for resolving questions concerning those practices
- assuring that all students who should be tested are tested
- utilizing tests which are developmentally appropriate
- utilizing tests only for the purposes for which they were designed

Scoring, Analysis and Reporting

- interpreting test results to the appropriate audience
- providing adequate data analyses to guide curriculum implementation and improvement

Because standardized tests provide only one valuable piece of information, such information should be used in conjunction with all other available information known about a student to assist in improving student learning. The administration of tests required by applicable statutes and the use of student data for personnel/program decisions shall comply with the *Testing Code of Ethics* (16 NCAC 6D .0306), which is printed on the next three pages.

- Include in guidance documents specific, context-based examples of prohibited conduct.

Security Breaches

The following activities represent breaches in security and must be avoided:

- Reviewing, examining, or analyzing test items or student responses to items (including supplemental items) either prior to, during, or after testing
- Providing students with, or access to, test items (including supplemental items) or test content prior to testing
- Providing students with, or access to, answers prior to or during testing
- Keeping, copying, reproducing, cloning, or using in any manner inconsistent with instructions specified in the Test Examiner's and the Test Coordinator's Manuals any item (including supplemental items) or any portion of any test (including supplemental tests) except those items and tests specifically released by the Connecticut State Department of Education (CSDE)
- Keeping, copying, or reproducing any portion of student responses to any item (including supplemental items) or any section of any test (including supplemental tests)
- Coaching students, altering student responses, or interfering with student responses in any way prior to, during, or after testing; this includes, but is not limited to, providing students with explanations of questions or definitions of test-item vocabulary for any section of the test
- Failing to follow instructions specified in the Test Examiner's and the Test Coordinator's Manuals for the distribution and return of test materials or failing to account for all test materials prior to, during, or after testing
- Failing to follow all directions pertaining to the administration of the CMT as specified in the Test Examiner's and the Test Coordinator's Manuals
- Allowing, participating in, assisting in, or encouraging any unauthorized access to test materials (including supplemental materials) prior to, during, or after testing
- Allowing students to use portable listening or recording devices, cell phones, personal digital assistants, or other electronic equipment during any test session, except for approved accommodations and allowable calculators
- Leaving in view of students during test administration any materials (e.g., bulletin boards, posters, desktop learning aids) that are content related or conceptually related to the subject areas being assessed

Any breaches in test security must be reported *immediately* by the test examiner to the District Test Coordinator who must contact the CSDE Student Assessment Office at (860) 713 – 6860. Questions about test security can also be directed to this office.

- **Publish clear and unequivocal warnings as to the consequences of prohibited conduct.**

OVERVIEW

NOTES

Penalties for Prohibited Conduct

In accordance with 19 TAC §101.65, any person who violates, assists in the violation of, or solicits another to violate or assist in the violation of test security or confidentiality, and any person who fails to report such a violation, may be subject to the following penalties:

- placement of restrictions on the issuance, renewal, or holding of a Texas educator certificate, either indefinitely or for a set term;
- issuance of an inscribed or non-inscribed reprimand;
- suspension of a Texas educator certificate for a set term; or
- revocation or cancellation of a Texas educator certificate without opportunity for reapplication for a set term or permanently.

Release or disclosure of confidential test content could result in criminal prosecution under TEC §39.0303, Section 552.352 of the Texas Government Code, and Section 37.10 of the Texas Penal Code. Further, 19 TAC §249.15 stipulates that the State Board for Educator Certification may take any of the above actions based on satisfactory evidence that an educator has failed to cooperate with TEA in an investigation.

Additionally, irregularities resulting in a breach of test security or confidentiality may result in the invalidation of students' assessments.

- **Require security oath be taken in which test administrators affirm that they:**
 - **Understand their test security obligations.**
 - **Acknowledge potential sanctions for violations.**
 - **Have received training.**
 - **Have read relevant manuals.**



- **Standardize sanctions for security breaches:**
 - **Specify penalties appropriate for different categories of misconduct.**
 - **Encourage LEAs to enforce the consequences deemed appropriate for each occurrence.**
 - **Recommend termination in cases involving egregious and intentional misconduct.**

VI. INCREASE FREQUENCY OF AUDITS

- **Conduct comprehensive audits at multiple levels.**
- **Develop long-range strategic plan.**
- **Establish policies and procedures.**

VII. INCREASE TRANSPARENCY AT STATE & LOCAL LEVEL

- **Institute annual public reporting of TSU's activities.**
- **Publish, as appropriate, results of SED audits.**
- **Require LEAs and DS to report on test integrity issues, including, but not limited to, disclosure of confirmed allegations.**

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