EN SURING THE INTEGRITY OF THE NEW YORK STATE TESTING PROGRAM

MARCH 19, 2012
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

<table>
<thead>
<tr>
<th>Measure</th>
<th>Evaluate</th>
<th>Hold accountable</th>
<th>Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>student achievement and provide services</td>
<td>teacher and principal effectiveness</td>
<td>schools and districts for their performance</td>
<td></td>
</tr>
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</table>
“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")

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APDA
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.

- 23 PEOPLE ASSIGNED TO HANDLE ALLEGATIONS
  None of the 23 staff devote more than a portion of their time to this function.
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

<table>
<thead>
<tr>
<th>School Year</th>
<th>2006 - 07</th>
<th>2007 - 08</th>
<th>2008 - 09</th>
<th>2009 - 10</th>
<th>2010 - 11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Reported Allegations</td>
<td>102</td>
<td>108</td>
<td>127</td>
<td>118</td>
<td>108</td>
</tr>
<tr>
<td>Number of Verified Allegations</td>
<td>54 (53%)</td>
<td>56 (52%)</td>
<td>87 (69%)</td>
<td>54 (46%)</td>
<td>27 (25%)</td>
</tr>
</tbody>
</table>
Important information is not collected or is inadequately analyzed.
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.
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.

- Verified Allegations of Educator Cheating
- Action Taken Against Teachers' Certifications

2006 - 2011

278
4
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

- Audits & Forensic Methods
  - Spike Cluster Analysis
  - Erasure Analysis
  - Audit Re-scoring
  - Monitoring Visits
  - Department Review
- No strategic plan, polices 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

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Test Security Unit
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.
- 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.
V. ESTABLISH STATEWIDE TEST INTEGRITY STANDARDS

- Promulgate a legally enforceable testing code of ethics.

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.
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.
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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