



DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

**District of Columbia
Test Security
Investigations Protocol
2018-19**

Introduction

The District of Columbia Statewide assessment program, administered by the Office of the State Superintendent of Education (OSSE), is of the utmost importance to the measurement and reporting of the achievement of students and schools in the District of Columbia. Pursuant to the District of Columbia Public Education Reform Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-1800 *et seq.*), OSSE serves as the state education agency (SEA) and performs the functions of an SEA for the District of Columbia under applicable federal law, including grant-making, oversight, and state functions for standards, assessments, and federal accountability requirements for elementary and secondary education.

The District's Test Security Guidelines for the 2018-2019 school year set forth the minimum requirements to ensure that local educational agencies (LEAs) and school personnel are aware of the state requirements for maintaining strict test security procedures. OSSE's goal is for schools and LEAs to deliver a uniform and equitable statewide assessment program. For assessments to yield fair and accurate results, the assessments must be administered in consistent and standardized conditions; and the best way to ensure that occurs is to ensure all teachers and administrators understand and recognize acceptable and unacceptable assessment practices and protocols.

Pursuant to section 201 of the Testing Integrity Act of 2013 (D.C. Law 20-27; D.C. Official Code § 38-2602(b)(20)(L)), the purpose of this protocol is to establish the standards and protocols for investigations of any alleged violation of an applicable law, regulation, or policy relating to testing integrity and security.

(I) GENERAL PROVISIONS

- (a) Upon its own initiative, or upon receipt of information alleging violation(s) of any an applicable law, regulation, or policy relating to testing integrity and security, OSSE may conduct an investigation, in accordance with the relevant provisions of this Chapter, to ensure that assessment results are valid and trustworthy or to determine whether a violation occurred.
- (b) An LEA shall cooperate and participate in any OSSE investigation.
- (c) Investigations may be conducted by an entity authorized by OSSE.
- (d) OSSE may initiate an investigation as necessary, including during or after the administration of the statewide assessments
- (e) A local education agency (LEA) shall ensure that all relevant LEA and school staff designated as authorized personnel are made available to cooperate and participate in the investigation.
- (f) An LEA shall access and use the internet-based test security incident management platform provided by OSSE or an OSSE designee for the purposes of completing the LEA inquiry component of the investigation.

(II) TEST INTEGRITY AND SECURITY: VIOLATIONS

- (a) A violation is any incident or action, intentional or otherwise, that breaches the security or threatens the integrity of the statewide assessment results, that includes the following, as defined herein:

- (1) Breach;
 - (2) Cheating;
 - (3) Compromise;
 - (4) Impropriety;
 - (5) Irregularity;
 - (6) Misconduct; or
 - (7) Test Piracy.
- (b) Examples of violations may include the following:
- (1) Incomplete or missing test documents;
 - (2) Inconsistencies in the application of administration procedures;
 - (3) Misinterpretation of requirements in the Test Coordinator/Administrator Manuals not related; to test tampering or academic fraud;
 - (4) Failure to report certain types of incidents;
 - (5) Failure to provide appropriate accommodations or providing accommodations to students who are not eligible
 - (6) Failure to distribute, collect, or refusal to sign Non-Disclosure Agreements;
 - (7) Educator coaching;
 - (8) Providing students with answers;
 - (9) Allowing student(s) use of calculators or other technology when prohibited, or providing unauthorized accommodations, unless otherwise permitted;
 - (10) School- or LEA-level coordination of educator coaching;
 - (11) School-wide test fraud; or
 - (12) Test tampering.
- (c) An incident or action by an authorized personnel shall not be considered a violation if the action meets one of the following expectations:
- (1) The action was necessary to provide for an accommodation that is identified as an accommodation for an eligible student as set forth in § 2306.11; or
 - (2) The action was considered an acceptable action pursuant to § 2306.14 that was limited to supporting students to stay on task and focused and did not impact the content of students' answers.

(III) INITIATION OF INVESTIGATIONS

- (a) OSSE shall initiate an investigation if:
- (1) OSSE identifies egregious noncompliance; or
 - (2) OSSE receives a report or complaint alleging a violation of the laws, regulations, and policies relating to testing integrity and security.
- (b) OSSE may initiate an investigation in other circumstances, including:
- (1) Several or severe “monitoring” visits during testing administration;

- (2) An LEA conducted their own investigation instead of immediately reporting any concerns or potential violations to OSSE;
- (3) Significant statistical anomalies were detected in the test response data of one or more groups of students in the school;
- (4) Data forensics at identifying unusual changes in scores, year to year;
- (5) Patterns of inappropriate assessment practices that occur over time
- (6) Information derived as a result of social media monitoring for potential violations;
- (7) Receipt by OSSE of incident reports, support tickets, or training issues;
- (8) Observation of a violation prior to, during or after the administration of a Statewide assessment through a review of test administration practices;
- (9) Irregularity reports;
- (10) Media monitoring that indicate a breach of security;
- (11) Monitoring reports prepared by OSSE or OSSE designees; or
- (12) Random identification.

(IV) INVESTIGATION PROCESS

- (a) An investigation to ensure that assessment results are valid and trustworthy or to determine whether a violation occurred may include the following two phases:
 - (1) An LEA inquiry, in the form and manner set forth by OSSE or OSSE’s designee, which includes the following:
 - (A) Document Collection: An LEA shall collect the documents requested by OSSE and if any of the required documents are not provided, the LEA factfinders shall provide a written explanation.
 - (B) Interviews with the following, as applicable:
 - (i) School test coordinator;
 - (ii) Special Populations (accommodations) coordinator;
 - (iii) Technology coordinator;
 - (iv) Student(s), if applicable;
 - (v) Proctor(s); and
 - (vi) Test administrator(s). And,
 - (2) An OSSE review, which includes but is not limited to the following:
 - (A) Comprehensive examination of the documents, data, information and evidence provided through the LEA inquiry;
 - (B) Collection and review of additional relevant documents, as necessary;
 - (C) Review of any OSSE records that may be relevant to the investigation; and
 - (D) Determination of whether a violation occurred.
- (b) If there is an allegation of a violation that involved school- or LEA-level coordination or participation, the investigation shall not include an LEA inquiry phase. OSSE, or an OSSE designee will collect the documents and conduct the interviews.
- (c) Once OSSE has determined an investigation is necessary, OSSE shall inform the LEA, in writing, that OSSE is initiating an investigation as follows:
 - (1) State the circumstance(s) that triggered the investigation;

- (2) Identify the following information, as applicable to the investigation:
 - (A) The school(s) to be investigated;
 - (B) The grade level(s) and subject(s);
 - (C) The assessment under investigation;
 - (D) Relevant details regarding the administration of the assessment under investigation; and
 - (E) The student(s), proctor(s); and test administrators(s).
- (d) During the LEA inquiry phase of the investigation, the LEA shall:
 - (1) Designate two (2) LEA employees as the LEA factfinders, neither of whom shall have served a direct role in the oversight of testing integrity and security at the school or LEA, including members of the LEA or school assessment team;
 - (2) Submit the names, titles, contact information of the LEA factfinders to OSSE within two (2) business days;
 - (3) Ensure the LEA factfinders complete any training required by OSSE to conduct the LEA inquiry; and
 - (4) Conduct the LEA inquiry in the form and manner set forth by OSSE or OSSE's designee.
- (e) At any time during the LEA inquiry, OSSE may request additional information in the form of documents or interviews, as needed, upon reviewing the data and evidence submitted by an LEA. An LEA shall respond to OSSE's request within two (2) business days.

(V) CONSEQUENCES FOR VIOLATIONS

- (a) Any individual person, school or LEA may be subject to the penalties and sanctions set forth in this section if, based upon the investigation, OSSE finds a violation of security, confidentiality or integrity of any statewide assessment administered pursuant to § 2312.
- (b) If OSSE finds that a violation occurred, OSSE shall evaluate the violation and determine the most appropriate sanction(s) based on severity and precedent, taking into account the following:
 - (1) The seriousness of the violation;
 - (2) The extent of the violation;
 - (3) The role the individual played in the violation;
 - (4) The LEA leadership's involvement;
 - (5) How and when the violation was reported to OSSE; and
 - (6) The action taken by the LEA since the violation was reported to OSSE.
- (c) When a sanctionable violation is issued against an LEA or school, OSSE shall issue the following sanctions to an LEA or school:
 - (1) The payment of any expenses incurred by OSSE as a result of the violation, including the costs associated with developing, in whole or in part, a new assessment;
 - (2) An administrative fine of not more than \$10,000 for each violation; and
 - (3) The invalidation of test scores.

- (d) An individual who knowingly and willfully violates, assists in the violation of, solicits another to violate or assist in the violation of, or fails to report a violation of the Testing Integrity Act, the OSSE Test Integrity Guidelines, the school test security plan, or other test integrity policy or procedure, shall be subject to sanctions, which shall include:
 - (1) Denial, suspension, revocation, or cancellation of, or restrictions on the issuance or renewal, of a teaching or administrative credential or teaching certificate issued by OSSE, or both, for a period of not less than one (1) year;
 - (2) Payment of expenses incurred by the LEA or OSSE as a result of the violation; and
 - (3) An administrative fine, not to exceed \$1,000 for each violation.

- (e) If OSSE finds that a non-sanctionable violation occurred, OSSE may issue the following consequences:
 - (1) Invalidation of student(s) test results;
 - (2) Stopping testing;
 - (3) Voiding test score(s);
 - (4) Additional training; or
 - (5) Other method of corrective action as determined by OSSE.

- (f) Regardless if OSSE finds a violation occurred, OSSE may require the LEA to demonstrate compliance with a corrective action plan to address any irregularities or concerns found during an investigation that includes the specific strategies, processes, school-level protocols (additional trainings, supporting materials, LEA monitoring of schools, etc.) that the school or LEA will take to ensure valid and secure administration in the following year.

- (g) Consequences imposed by OSSE do not limit an LEA's authority to impose its own sanctions up to and including termination of LEA or school employee(s).

- (h) OSSE shall provide written notification of the finding and an opportunity for review, as specified in this Protocol, as follows:
 - (i) Notice of Finding of No Violation shall:
 - (1) State that OSSE investigation determined that a violation did not occur; and
 - (2) Offer technical assistance or a corrective action plan to avoid potential investigations in the future.
 - (j) Notice of Finding of Non-sanctionable Violation shall:
 - (1) State the violation; and
 - (2) Notify that they have 30 days from the date the written notification is issued to request a reconsideration of the finding of non-sanctionable violation.;
 - (k) Notice of Finding of Violation and Issuance of Sanction to an LEA
 - (1) State the violation; and
 - (2) Notify that the LEA have 10 calendar days from the date the written notification is issued to request an administrative review of the sanctionable finding.
 - (l) Notice of Finding of Violation and Issuance of Sanction to an individual
 - (1) State the violation;

- (2) Notify that the individuals has 10 calendar days from the date the written notification is issued to request an administrative review of the sanctionable finding; and
- (3) Provide notice to school and LEA leadership.

(VI) RECONSIDERATION OF A FINDING OF NON-SANCTIONABLE VIOLATION(S)

- (a) An LEA or school may request reconsideration of the “Notice of the Finding of Non-Sanctionable Violation(s)” (Non-Sanctionable Notice) within thirty (30) calendar days of the date of the Non-Sanctionable Notice.
- (b) A written request for reconsideration shall be submitted to OSSE in the form and manner set forth by OSSE and shall, at minimum, include the following:
 - (1) A concise statement of facts that describe events resulting in the non-sanctionable finding;
 - (2) The specific basis for contesting the non-sanctionable finding;
 - (3) The specific relief requested; and
 - (4) Two (2) copies of all documentary evidence supporting the recipient's positions.
- (c) If the request for reconsideration is based in whole or in part on new or additional evidence, the written request shall demonstrate that the new or additional evidence is relevant and material, and explain why the new or additional evidence was not reasonably available prior to the issuance of the Non-Sanctionable Notice.
- (d) Upon receipt of the request, the State Superintendent, or the State Superintendent’s designee, shall review the LEA’s request or may delegate the matter to be reviewed by an OSSE employee who has not had any direct involvement or participated in the investigation, the determination of a violation, or the issuance of non-sanctionable finding.
- (e) The deciding official shall deny a request for reconsideration if, based on the totality of circumstances, the deciding official finds:
 - (1) OSSE properly issued the Non-Sanctionable Notice in the manner set forth in this Protocol;
 - (2) No significant or material departure from this Protocol occurred during the investigation;
 - (3) The finding of non-sanctionable violation(s) is substantially supported by the information and facts determined through the investigation;
 - (4) The new or additional evidence is not relevant and material; or
 - (5) The new or additional evidence was reasonably available.
- (f) The deciding official may remand the finding to OSSE’s assessments team to conduct a new investigation or other appropriate action if, based on the totality of circumstances, the deciding official finds:
 - (1) OSSE failed to properly issued the Non-Sanctionable Notice in the manner set forth in this Protocol;
 - (2) Significant or material departure from testing integrity and security protocol occurred during the investigation that substantively impacted the findings;

- (3) New or additional evidence has been discovered that previously was not reasonably available and that is relevant and material to a finding of a non-sanctionable violation; or
 - (4) A member of the investigation team had a conflict of interest or other ethical breach, which substantively affected the integrity of the investigation.
- (g) The deciding official's decision granting, denying or remanding the request for reconsideration of the Non-Sanctionable Notice shall be in writing and shall be the final agency decision of the Non-Sanctionable Notice shall be in writing and shall be the final agency decision.

(VII) ADMINISTRATIVE REVIEW OF FINDING OF VIOLATION AND ISSUANCE OF SANCTION

- (a) Any individual, school, or LEA aggrieved by a "Notice of Finding of Sanctionable Violation and Issuance of Sanction" (Sanction Notice) may obtain a review of the final decision by timely filing a written request for administrative review with the Office of Administrative Hearings (OAH), established pursuant to the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code, §§ 2-1831.01 *et seq.*), or OAH's successor.
- (b) The written request for administrative review shall be filed with OAH no later than ten (10) calendar days from the date of the Sanction Notice.
 - (1) The written request for administrative review shall include the following:
 - (2) The type and effective date of the sanction imposed;
 - (3) The name, address, and telephone number of the aggrieved party or the aggrieved party's representative;
 - (4) A copy of the Sanction Notice;
 - (5) A statement as to whether the aggrieved party or anyone acting on his or her behalf has filed for administrative review or appeal under any negotiated review procedure pursuant to a collective bargaining agreement, or has filed a complaint with any other agency;
 - (6) The identity of the collective bargaining unit, if any, of which the aggrieved party is a member;
 - (7) A concise statement of the facts giving rise to the request for administrative review;
 - (8) An explanation as to why the aggrieved party believes OSSE's issuance of sanctions was unwarranted and the submission of any supporting documentation;
 - (9) A statement of the specific relief the aggrieved party is requesting; and
 - (10) The signature of the aggrieved party and his or her representative.
- (c) If the aggrieved party is a member of a collective bargaining unit, he or she may choose between the negotiated grievance process set forth in a collective bargaining agreement or the administrative review process set forth in this Protocol.
- (d) If a request for administrative review is not filed with OAH within ten (10) days, the Sanction Notice shall become OSSE's final administrative decision.

- (e) If a request for administrative review is filed timely, the final OAH decision shall thereafter constitute OSSE’s final administrative decision, and shall be subject to the applicable statutes and rules of judicial review for OAH final orders.
- (f) Any person(s) aggrieved by a final decision of OAH may appeal the decision to the District of Columbia Court of Appeals pursuant to Section 11 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Official Code § 2-510).

(VIII) DEFINITIONS

For the purposes of this Protocol, the following terms shall have the meanings ascribed:

Breach – An event, intentional or not, that results in the inappropriate exposure of test items or answers that could potentially impact the accuracy of the test results; or an action by others before, during, or after a test administration to impact student test scores (e.g., educators changing student answer sheets).

Cheating – General term that can include educator or student misconduct or improprieties that includes intentional misbehavior or unethical practices. Note that this term is not used in every state. Some states avoid the use of the word “cheating” in their communications and use different terminologies.

Compromise – Disclosure of test items or forms; can be intentional or unintentional. May also refer to changing the interpretation of a test score or changing the test score itself.

Impropriety – Inappropriate misconduct; a more serious offense than an irregularity. The difference between impropriety and irregularity is usually defined in perception of the degree, intent, and/or effect of the misconduct.

Invalidation – The act of omitting test results and student responses from the testing, reporting, and accountability systems for a given testing event for which the student may not retest.

Irregularity – This includes many different activities, not necessarily cheating, but anything unusual that happened during testing, such as the fire alarms went off or a power outage.

Misconduct – Misbehavior during testing, such as inappropriate proctoring or other violations of standard testing protocol.

OSSE – the Office of the State Superintendent of Education.

Secure Materials - as defined in D.C. Official Code § 38-2602(b)(20)(O)(iii-I), test materials that might contain or provide access to assessment content, such as information about test questions or answers, including test questions, passages, or performance tasks, answer documents, and used scratch paper.

Statewide Assessment – Districtwide assessment as defined in D.C. Official Code § 38-771.01(2).

Test Administrator Manual - An assessment-specific and vendor-developed manual published and shared with LEAs and schools by OSSE, which provides required instructions applicable to Test Administrators necessary for the administration of the assessment, as well as the procedures and protocols for completion before, during, and after test administration and which also contains high-level protocols required for test security and test administration.

Test Monitor – A specialized type of Authorized Personnel who is responsible for testing integrity and security at each individual school subject to the LEA’s control during the administration of a Statewide assessment.

Test piracy – Stealing of test forms, items, prompts, or other secure testing materials, often for the purpose of selling the materials to others.

Test Items – All secure test materials including but not limited to: test questions, test prompts, passages, and the layout of the Statewide assessment.

Test Materials - Secure or non-secure documents for purposes of the administration of a Statewide assessment.

Testing environment -- Includes, but is not limited to, the testing room, hallways, stairwells, and bathrooms where testing students travel during testing sessions.

Testing window --The particular date(s) and time(s) scheduled for an individual testing group to take a specified Statewide assessment or portion thereof.

Unapproved electronics – Any technological device not used by a student, test administrator or proctor to take or administer a statewide assessment.

Questions

Please contact OSSE.Assessment@dc.gov if you have general questions regarding this guidance. For specific technical assistance concerning test integrity and security, contact Chanon Bell, Assessment Specialist- Policy, Reporting, and Research, at Chanon.Bell@dc.gov or (202) 316-6500.