

**SUMMARY OF RULES:**  
**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES GOVERNING**  
**TEST SECURITY, TESTING VIOLATIONS, AND ALLEGED TESTING IMPROPRIETIES**

The proposed amendments to these rules:

- Change the definition of "District Test Coordinator (DTC)", to align with the DESE Rules Governing the Arkansas Educational Support and Accountability Act and provide greater flexibility as to who may serve in this role. The amendment would enable districts to appoint a non-licensed employee or individual contracted by the district to serve as the DTC if under the supervision of an educator as defined in the AESAA rules.
- Clarify the requirements and procedures for reporting and processing alleged test improprieties, irregularities, violations, or breaches of security.
- Set forth the four stages (levels) of violations that are reported.
- Replace Arkansas Department of Education with the Division of Elementary and Secondary Education.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** ADE Division of Elementary and Secondary Education  
**DIVISION** Learning Services  
**PERSON COMPLETING THIS STATEMENT** Courtney Salas-Ford  
**TELEPHONE NO.** 501-682-4752 **FAX NO.** 501-682-4249 **EMAIL:** Courtney.salas-ford@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** DESE Rules Governing Test Security, Testing Violations, and Alleged Testing Improprieties

1. Does this proposed, amended, or repealed rule have a financial impact?  
 Yes \_\_\_\_\_ No X
  
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
 Yes X No \_\_\_\_\_
  
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes X No \_\_\_\_\_

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;
  
- (b) The reason for adoption of the more costly rule;
  
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
  
- (d) Whether the reason is within the scope of the agency’s statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue \_\_\_\_\_

General Revenue \_\_\_\_\_

Federal Funds \_\_\_\_\_

Federal Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_

Special Revenue \_\_\_\_\_

Special Revenue \_\_\_\_\_

Other (Identify) \_\_\_\_\_

Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

Total \_\_\_\_\_

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

---

---

---

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

---

---

---

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes \_\_\_\_\_ No X

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously

with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

**~~ARKANSAS DEPARTMENT OF EDUCATION~~**  
**DIVISION OF ELEMENTARY AND SECONDARY EDUCATION**  
**RULES GOVERNING TEST SECURITY, TESTING VIOLATIONS, AND ALLEGED**  
**TESTING IMPROPRIETIES**  
**July 2013 Effective 2019**

**1.00 REGULATORY AUTHORITY**

- 1.01 These rules shall be known as the Arkansas Department of Education Division of Elementary and Secondary Education (“Division”) Rules Governing Test Security, Testing Violations, and 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., 6-15-2901 et seq., 6-17-410 and 25-15-201 et seq., and Act 930 of 2017.

**2.00 PURPOSE**

The purpose of these rules is to:

- 2.01 Define the requirements for maintaining test security and confidentiality on state required assessments;
- 2.02 Identify procedures for reporting testing violations;
- 2.03 Identify a procedure for investigating and addressing complaints regarding alleged testing improprieties; and
- 2.04 Identify categories of violations and actions for individuals, schools, or districts found in violation of the test security requirements included in these Rules and the Arkansas Educational Support and Accountability Act.

**3.00 DEFINITIONS**

- 3.01 “District Test Coordinator” means the same as defined in the Division Rules Governing the Arkansas Educational Support and Accountability Act.
- 3.02 “Ethics violation” means an act or omission on the part of an educator, when the educator knew, or reasonably should have known, that such acts or omissions were in violation of the Code of Ethics for Arkansas Educators;
- 3.03 "Public school" means:
- 3.03.1 A school operated by a public school district; or
- 3.03.2 An open-enrollment public charter school, as defined in Ark. Code Ann. § 6-23-103.

3.04 “Public school district” means:

3.04.1 A geographic area that qualifies as a taxing unit for purposes of ad valorem property taxes under Ark. Code Ann. § 26-1-101 et seq. and Arkansas Constitution, Article 14, § 3, and is either:

3.04.1.1 Governed by an elected board of directors; or

3.04.1.2 Under the administrative control of the State Board or the Commissioner of Education in place of an elected board of directors; or

3.04.2 An open-enrollment public charter school, as defined in Ark. Code Ann. § 6-23-103.

3.05 “Procedural-testing irregularity” means a departure from the established administration procedures that does not represent a severe breach in test security or confidentiality;

3.06 “Sanction” means a penalty for failing to maintain the security or confidentiality of a state required assessment;

3.017 “Testing impropriety” ~~“Conduct that violates the security or confidential integrity of a test or assessment” or “testing impropriety”~~ means any departure from either the requirements established by ~~the Commissioner of Education for the administration of the assessment law or rule~~ or from the procedures specified in the applicable test administration materials or Division assessment training, that violates or compromises the security or confidential integrity of an assessment or inappropriately influences student performance or the reporting of student performance, and may include, without limitation, the following acts or omissions:

3.017.1 Viewing secure assessment materials;

3.017.2 Duplicating secure assessment materials;

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

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

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

3.017.65 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;~~

3.07.6 Failing to return the secured test booklets to the testing company in a timely manner;

~~3.04.9.97 Encouraging or assisting an individual to engage in conduct described in Section 3.01 of these rules, the Department's Rules Governing the Arkansas Educational Support and Accountability Act, or in Ark. Code Ann. § 6-15-4386-15-2907;~~

~~3.04.10.8 Failing to report to the appropriate authority that an individual has engaged in conduct set forth in Section 3.01 of these rules, the Department's Rules Governing the Arkansas Educational Support and Accountability Act, or in Ark. Code Ann. § 6-15-4386-15-2907; or~~

~~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.~~

3.07.9 Having a founded history of repeated unresolved testing violations.

~~3.05.8~~ "Test Security Agreement" means the agreement provided to each test administrator or other educator involved in testing that outlines the security requirements for testing and the agreement that these are understood and will be followed by the signatory;

3.09 "Testing violation" means any departure from established procedures and administration requirements of the state required assessment as indicated in law, these Rules, the manuals and Department of Education training and may include, without limitation, the following acts or omissions:

3.09.1 Failing to follow the specified testing procedures or to actively monitor students while testing;

3.09.2 Allowing personnel who are not trained in test security to access secure tests, testing materials, or an on-line test delivery system;

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

3.09.4 Failing to provide an approved accommodation to a student that may influence the student's performance or providing accommodations to

students for which they do not qualify or are not included in their Individualized Education Program (IEP) or 504 plan; or

3.09.5 Failing to follow the specified procedures and required criteria for alternate assessments.

#### 4.00 GENERAL REQUIREMENTS

- 4.01 A 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, Division training provided for each assessment, or other policy documents issued by the Division.
- ~~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 open-enrollment 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 open-enrollment public charter school; and~~
  - ~~4.05.6 Establishment of a school district or open-enrollment 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.~~

~~4.03 The superintendent or equivalent in each public school district is responsible for the proper implementation of these Rules, Section 5.00 of the Division Rules Governing the Arkansas Educational Support and Accountability Act concerning the Statewide Student Assessment System, and the assessment requirements set forth in the Arkansas Educational Support and Accountability Act, Ark. Code Ann. § 6-15-2901 et seq..~~

## **5.00 REPORTING OF ALLEGED TESTING IMPROPRIETIES**

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

~~5.01.1 Traditional public schools, conversion public charter schools, open enrollment public charter 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 assessment 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 traditional public school, conversion public charter school, open enrollment public charter 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 traditional public schools, conversion public charter schools, open enrollment public charter schools or public school districts in this manner.

5.01 Public school district-level personnel with knowledge of any testing violation or breach of security must notify the Division.

5.02 Public school personnel with knowledge of a testing violation or an alleged testing impropriety must contact the school administration, the district test coordinator, or the superintendent, to report the violation. Personnel may also contact the Division Office of Student Assessment if the violation concerns any of the above-named district-level personnel.

5.03 The district test coordinator or other administrator with knowledge of the violation or alleged impropriety:

5.03.1 Must document the incident;

5.03.2 May gather evidence or statements from those involved;

5.03.3 Must contact the Division Office of Student Assessment via telephone to report the incident or to attempt to immediately correct a ~~alleged~~ testing impropriety in a manner that would safeguard the validity and security of the ongoing test; and

5.03.4 May be required to file a written, signed report with the ~~department~~ Division.

- 5.04 Any public school personnel or individual with knowledge of a testing violation or alleged testing impropriety may file a report with the Office of Student Assessment.
- 5.05 Public school district personnel may complete the District/School Testing Violation Report form ~~that can be found on the ADE~~ available on the Division's website.
- 5.06 Any other organization or individuals may complete the Individual Testing Violation Report form ~~found on the ADE~~ available on the Division's website
- 5.07 All violation reports should be filed immediately, but no later than fourteen (14) days after the reporting party became aware of the testing violation or alleged testing impropriety.
- 5.08 Written violation reports must be submitted via United States Postal Service, hand-delivered, or via facsimile or email to the Office of Student Assessment to the attention of the Assessment Director
- 5.09 Written violation reports, if not ~~completing~~ submitted using the ADE Division's Testing Violation Report form, must include:
- 5.09.1 A statement that conduct violating the security or confidential integrity of a test or assessment has occurred;
- 5.09.2 Specific facts upon which the statement is based, including without limitation:
- 5.09.2.1 When the alleged violation occurred;
- 5.09.2.2 Where the alleged violation occurred;
- 5.09.2.3 How the alleged violation occurred, including specific statements of fact describing the acts or omissions alleged to constitute a violation;
- 5.09.2.4 Names of individuals who allegedly committed the violation, if known;
- 5.09.2.5 Names of individuals who possess information concerning the alleged violation; and
- 5.09.2.6 The signature of the individual filing the complaint. The Office of Student Assessment shall not process anonymous reports.

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

## 6.00 PROCESSING A REPORT OF TESTING VIOLATIONS OR ALLEGED TESTING IMPROPRIETIES

- 6.01 The Office of Student Assessment of the ~~Department of Education~~ Division shall receive and review reports of testing violations or 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; The Director may, as part of the initial review, request additional information or documentation from the district superintendent or district test coordinator, and determine what actions have been taken by the district with respect to the testing violations or alleged testing improprieties.~~

- 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 After the Director's initial review, he or she will appoint a committee of Division staff to conduct a review of all reports of testing violations or alleged testing improprieties and any additional documentation submitted. The committee will categorize each reported testing violation and alleged testing impropriety into one of the following stages:~~

- 6.02.2.1 Stage 1: Testing violations and alleged testing improprieties that do not breach the security or confidentiality of the assessment or influence the validity of student performance on the assessment. These testing

violations are typically procedural in nature and are able to be corrected at the time of testing with no likelihood that the incident would reoccur during the remaining test administration window.

6.02.2.2 Stage 2: Testing violations and alleged testing improprieties that depart from the administration requirements of the assessment, may impact the security of the assessment, the confidentiality of student data, or the reports of student performance, but are not found to be egregious or intentional. These testing violations are generally the result of unintentional human error, inattention during test preparation or administration, insufficient test monitoring, lack of training, and include other violations that may not impact the security of the assessment or adversely affect the performance of students. These violations are able to be corrected at the local level.

6.02.2.3 Stage 3: Testing violations and alleged testing improprieties that result from failure to follow the required procedures for testing, failure to follow the requirements of the Security Agreement, or other actions that may violate the security of the assessment or inappropriately influence student performance or the reporting of student performance or a pattern of stage 1 or 2 testing violations within a public school or across schools in a district.

6.02.2.4 Stage 4: Testing violations and alleged testing improprieties that violate the security of the assessment or influence student performance or the validity of the reports, show intentional or egregious disregard for the established test administration procedures, 3 or more years of stage 3 violations without correction(s), and action(s) associated with testing that are a direct violation of the Educator Code of Ethics.

~~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 Reported testing violations and alleged testing improprieties shall be recommended for disposition as follows:

- 6.03.1 Stage 1: These reports are informally and administratively processed by the Division’s Office of Student Assessment and no further action will be required.
- 6.03.2 Stage 2: The superintendent will receive a letter from the Division’s Office of Student Assessment requiring the district to develop and implement procedures to ensure the violation does not reoccur. The superintendent may be required to complete an affidavit to ensure the local plan will be developed and implemented the next school year. Additional sanctions may be imposed.
- 6.03.3 Stage 3: The superintendent will receive a letter from the Division’s Office of Student Assessment requiring the district to develop a plan that includes procedures and training to ensure that violations do not occur in the future. The plan must be developed and sent to the Office of Student Assessment for approval within 45 days of the receipt of the letter. The approved plan must be implemented and evidence of its implementation provided to the Division. Additional sanctions, including without limitation, a letter of reprimand to be placed in an individual’s employee record, may be imposed.
- 6.03.4 Stage 4: These reports shall be referred by the Director of the Office of Student Assessment or his or her designee to the appropriate authorized entity for processing under the procedures of that entity:
- Professional Licensure Standards Board
  - Charter Authorizing Panel
  - State Board of Education
  - Division of Public School Accountability
- 6.04 Within twenty (20) days of receiving the recommended disposition of the Office of Student Assessment, the superintendent of the public school district, or accused licensee, shall notify, in writing, the Office of Student Assessment whether the public school district, or accused licensee, agrees with the recommended disposition or wishes to appeal the recommended disposition to the State Board of Education.
- 6.04.1 Failure of a public school district or accused licensee to respond to the Office of Student Assessment’s recommended disposition within twenty (20) days shall constitute a waiver of the right to appeal such recommended disposition.
- 6.04.2 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.

- 6.04.3 If a public school district or accused licensee does not appeal the recommended disposition of the Office of Student Assessment, or does not file such an appeal within twenty (20) days, the recommendation of the Office of Student Assessment shall become final.
- 6.04.4 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.
- 6.04.5 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.

~~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 of an appeal:

~~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. Documentation for consideration by the State Board during the appeal hearing shall be submitted to the Division no later than fifteen (15) days prior to the date of the hearing.~~

~~7.01.2 Each party will be given ~~thirty (30)~~ twenty (20) minutes to present their cases, beginning with the representative of the ~~Department of Education~~ Division of Elementary and Secondary 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. All persons~~

wishing to testify before the State Board shall first be placed under oath by the Chairperson of the State Board.

~~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). The State Board shall then discuss, deliberate, and vote upon the matter of the classification.~~

~~7.01.5 The State Board of Education may:~~

~~7.01.5.1 Adopt the recommended disposition of the Office of Student Assessment;~~

~~7.01.5.2 Modify the recommended disposition of the Office of Student Assessment; or~~

~~7.01.5.3 Grant the appeal of the public school district or accused licensee.~~

~~7.01.56 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). If it deems necessary, the State Board may take the matter under advisement and announce its decision at a later date, provided that all discussions, deliberations, and votes upon the matter take place at a public hearing.~~

~~7.01.67 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. The State Board shall issue a written order concerning the matter.~~

~~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.~~