

INFORMATION ONLY

October 5, 2008

TO THE ADMINISTRATOR ADDRESSED:

The Texas Assessment Program plays an important role in helping all students reach their academic potential. The state tests provide a snapshot of the degree to which students are mastering the Texas Essential Knowledge and Skills (TEKS). As a result of this snapshot, students can receive the additional help they need to strengthen their knowledge and skills in core academic areas, and districts and campuses can evaluate the effectiveness of their instructional programs.

A concern has been brought to my attention based on numerous reports received by the Student Assessment Division involving situations where students' confidential state assessment results may have been directly or indirectly disclosed. Specifically, some districts and campuses have distributed or released test scores in a manner that may have inadvertently identified students who did not meet the standard on a state assessment. In some cases, these reports reflect that rewards are being offered to selected students based on meeting the standard on the test. These awards may consist of such things as cash, pizza parties, field trips, and other varying forms of recognition.

While I understand that such motivational efforts are based upon a genuine concern for students, honoring students who meet the passing standard on the test may unintentionally identify students who did not meet the standard, negatively impacting them. Students' educational records, including performance on state assessments, are confidential records that must be protected in accordance with both state and federal laws (Texas Education Code, §39.030(b); Family Educational Rights and Privacy Act, 20 U.S.C. §1232g). Districts and campuses that use the results of student performance on state assessments in such a way as to disclose the identities of particular students or to identify which students met the passing standard on the state assessments and which did not could be violating these laws.

Consistent with the Family Education Rights and Privacy Act, a district may in some circumstances publicly recognize students who achieve the commended level of performance on assessments. However, the district must comply with the process to identify commended performance as an academic honor within the federal definition of "directory information," including an opportunity for parents to opt out of that disclosure.

To avoid any possible violation of laws protecting the confidentiality of students' educational records or appearance of impropriety, the Texas Education Agency encourages districts to develop and adopt local policies that specifically address this issue. Such action would be in the best interests of school districts, campuses, and the students of Texas. If you have any questions about the information contained in this letter, please contact Montgomery Meitler in the Legal Services Division at 512-463-9720.

Sincerely yours,

Robert Scott
Commissioner of Education

RS/ck