May 10, 2011

MEMORANDUM

TO: City and County Superintendents of Education

FROM: Joseph B. Morton
State Superintendent of Education

RE: Policy on Use of Digital Device During the Administration of a Secure Test

The integrity and validity of Alabama’s student assessment and accountability programs are essential for making appropriate curricular and instructional decisions as well as for ensuring public confidence. To that end, the Alabama State Department of Education (SDE) has required the invalidation of assessments when the test taker is observed violating the test security policy. Additionally, the SDE has required the confiscation of that device to ensure that no secure test information is on the device.

I am enclosing a copy of the SDE’s digital device policy. In an effort to ensure that all students and their parents are aware of this policy, I am asking that you include it in your system’s Student Code of Conduct Handbook prior to its next distribution. I am confident that documented student and parental awareness of the digital device policy will help to ensure compliance.

Additionally, I am enclosing suggested guidelines for the handling of a device that is confiscated. Although these guidelines are not intended to establish a statewide policy, we believe school systems should have confidence in following the guidelines because they: (1) protect student property rights, (2) ensure that secure test information is not copied from the test materials, and (3) minimize the risk of successful lawsuits against your school system or the SDE over an alleged wrongful search and seizure.

Please consult with your local school system’s attorney(s) as well, especially on individual cases as they arise. If you have any questions about these suggested guidelines, please do not hesitate to contact the SDE’s Office of General Counsel at (334) 242-1899.

JBM/GT/CP

Enclosures

cc: System Test Coordinators

FY11-2093
Alabama State Department of Education Policy

Use of Digital Device During the Administration of a Secure Test

Student Policy

The possession of a digital device (including but not limited to cell phones, MP3 players, cameras, or other telecommunication devices capable of capturing or relaying information) is strictly prohibited during the administration of a secure test. If a student is observed in possession of a digital device during the administration of a secure test, the device will be confiscated.

If a student is observed using a digital device during the administration of a secure test, testing for the student will cease, the device will be confiscated and is subject to search, the student will be dismissed from testing, and the student’s test will be invalidated.

Local education agency (LEA) personnel will make all students, parents, and/or guardians aware of this prohibition through inclusion of this policy in the Student Code of Conduct Handbook and other regularly used modes of communication.
Alabama State Department of Education

Suggested Guidelines for the Search of Digital Device Seized During the Administration of a Secure Test

Please note that these guidelines were created with the assumption that students (and preferably parents) have been notified (verbally and in writing when at all possible) that: (1) the possession of a digital device is **strictly prohibited** during the administration of a secure test; (2) if the device is used during the administration of a secure test, the device will be confiscated and is subject to a search; and (3) if the device is used during the administration of a secure test, the student’s test will automatically be invalidated.

The suggested guidelines are as follows:

1. Assuming that a student is observed in the possession of or use of a digital device during the administration of a secure test, the device will be confiscated by the test administrator. “Smart phones” should temporarily be turned off to prevent any remote-access data-wipe.

2. The test administrator should deliver the device as soon as practicable to a school administrator.

3. A “chain of custody” list should be kept to record everyone who had possession of the device and when the device was transferred to someone else. The device should be stored by the school administrator in a secure location until the next step is taken.

4. For the purposes of determining whether a search of a digital device should take place, the school administrator should:
   a. Learn the facts regarding the seizure of the device from the test administrator.
   b. Determine whether the student could have been using the device to cheat or for some other unpermitted purpose.

5. If the school administrator determines that the student was merely in possession of the digital device then it may be returned to the student in accordance with the school system’s policy.

6. If the school administrator believes that it is reasonable to suspect that the student was using the device for an impermissible purpose then he or she may search the device, limiting the search to only what is necessary to reasonably determine whether the student was cheating, copying secure test information, or violating a school rule. The school administrator should follow the local policy requirements regarding the search of student property.

7. If no wrongful activity is discovered on the device then it may be returned to the student in accordance with the school system’s policy.

8. If wrongful activity is discovered on the device regarding the test at issue or if other wrongful activity is inadvertently discovered on the phone, then the school administrator should secure the device in accordance with the school system’s policy and notify the system test coordinator, school system attorney, or local superintendent as appropriate.

9. Following a search in which wrongful activity is discovered, and when the device is a “smart phone,” the device should be turned off after the search to prevent a potential remote-access data-wipe.

10. Any disciplinary actions should be taken in accordance with the school system’s disciplinary policy.

11. Test irregularity reports should be completed in accordance with the Alabama State Department of Education’s student assessment handbook and in consultation with the Alabama State Department of Education’s section of Assessment and Accountability to ensure that no secure test information has been recorded or distributed.

12. In any situation involving the search and seizure of a student’s property, a school administrator should consult with his or her supervisor in accordance with the school system’s policy.