

## NOTICE OF DISCLOSURE OF ATLANTA PUBLIC SCHOOL STUDENT RECORDS

This notice is being provided to families of students enrolled in Atlanta Public Schools in 2008, 2009 and 2010, pursuant to the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g(b) and 34 C.F.R. § 99.31(a)(9)(ii), a federal law that protects the privacy of student records. If you are a student or the parent of a child who took the Criterion Referenced Competency Test (“CRCT”) while enrolled in Atlanta Public Schools in 2008, 2009, or 2010, this notice may apply to you. Please read it carefully.

In the lawsuit entitled State v. Beverly Hall et al., 13-SC-117954, in the Superior Court of Fulton County, the District Attorney and some Defendants have subpoenaed student answer sheets from the 2008, 2009, and 2010 administration of the CRCT in the Atlanta Public School District. The Georgia Department of Education is obligated to comply with this order and to provide the information, unless an objection is filed with the court. All parties and the Courts have agreed that the requested records should be disclosed to the Defendants and their attorneys, subject to confidentiality agreements, and subject to FERPA’s requirements that this notice be provided in advance and that parents and students be given the opportunity to object to disclosure.

**Information that will be disclosed** is limited to the name of the student; date of birth; gender, race/ethnic background; Georgia Test Identifier (GTID); FTE number (which may be a student’s Social Security Number); and their individual answer sheet for the portions of Reading, English Language Arts, Mathematics, Science, and Social Studies sections of the CRCT that were administered in the Atlanta Public School District in 2008, 2009, and 2010. Students’ scores will not be released, but parties will have access to answer keys for the exam that would indicate whether questions were answered correctly or incorrectly.

**Confidentiality:** The Court has entered a “Protective Order Governing Confidential Test Booklets and Answer Keys” in this matter that prevents the parties from sharing confidential documents and information, including student information on each answer document, with anyone outside the lawsuit. At no time will the names of any minors, birth dates, or social security numbers be released to the public. In addition, the Protective Order requires that any party seeking to introduce any confidential information into evidence will apply to the Court to take appropriate steps to keep the information confidential. The Order

also requires that all confidential documents exchanged during the lawsuit be returned or destroyed after the lawsuit is concluded.

**If you believe that your child's records should not be disclosed, you have the right to file an objection with the court.**

**For more information, contact:**

Johnna Griffin  
136 Pryor Street, SW  
3<sup>rd</sup> Floor  
Atlanta, GA 30303  
(404) 612-4981  
Email: [Johnna.Griffin@fultoncountyga.gov](mailto:Johnna.Griffin@fultoncountyga.gov)

FILED IN OPEN COURT THIS  
98th DAY OF February 20 14  
Panda T. Noble

IN THE SUPERIOR COURT OF FULTON COUNTY FOR THE  
STATE OF GEORGIA

STATE OF GEORGIA )  
 ) CASE NUMBER  
v. )  
 ) 13-SC-117954  
BEVERLY HALL, )  
et al, )  
 )  
Defendants. )

**PROTECTIVE ORDER GOVERNING CONFIDENTIAL TEST BOOKLETS AND ANSWER KEYS**

WHEREAS the Indictment in this case alleges cheating on Georgia's Criterion Referenced Competency Test ("CRCT") in various years, more specifically cheating by means of wrong to right erasures on answer sheets issued by the Georgia Department of Education ("GaDOE");

WHEREAS CRCT answer sheets and test booklets were designed and prepared by and are maintained in the custody of CTB/McGraw-Hill;

WHEREAS the Governor's Office of Student Achievement ("GOSA"), with the consent of GaDOE, commissioned an erasure analysis by CTB/McGraw-Hill ("CTB");

WHEREAS the Indictment in this case contends that the CTB erasure analysis corroborates the alleged cheating;

WHEREAS the Fulton County District Attorney has issued subpoenas to GaDOE, GOSA, and CTB requiring the production of test booklets, answer sheets, answer keys, and electronic files pertaining to the 2008, 2009, and 2010 CRCT and the CTB erasure analysis;

WHEREAS all parties recognize that such documents and information must be kept confidential to protect valuable state interests, to protect privacy concerns, and to comply with state and federal law;

WHEREAS GaDOE and CTB have insisted that all necessary steps be taken to protect the security and confidentiality of the CRCT, and the GaDOE, by and through counsel, has agreed to comply with subpoenas requesting originals of the documents, data, and other material pertaining to the CRCT to the Fulton County DA and to counsel for the defendants in this case if such steps are taken;

WHEREAS the parties have consented to the entry of this order to facilitate production of the materials sought, to resolve any initial objections to that production, and to address state interests and privacy concerns, it is hereby ORDERED:

1. As used in this ORDER, “Confidential Test Material” shall be defined as the form and contents of test booklets and answer keys from the 2008, 2009 and 2010 administrations of the CRCT, designated as such in writing by the Associate Superintendent for Assessment & Accountability of the Georgia Department of Education (the “Designating Party”), which have been disclosed to students and school personnel only during formal testing periods and have not been made available for study, test preparation or other legitimate use.

2. “Confidential Test Material” shall also include the location and content of “field test” items within the various forms of the CRCT.

3. This Order shall govern the use and dissemination of all information, documents or materials produced by GaDOE, GOSA, CTB, or other persons in this case and designated as Confidential Test Materials in accordance with the terms of this Order.

4. Except to the extent expressly authorized by this Order, Confidential Test Material shall not be used or disclosed for any purpose other than the preparation and trial of this case, including any preliminary motions and proceedings, and any resulting appeals.

5. Except with the prior written consent of the Designating Party, or as expressly authorized by this Order, no person receiving Confidential Test Material may disclose it to any other person. Nothing in this Order, however, shall be deemed to restrict in any manner the Designating Party's use of its own Confidential Test Material. Each such party may disclose its own Confidential Test Material without regard to this Order, unless otherwise prohibited from doing so.

6. Access to Confidential Information shall be limited to:

(a) Defense counsel of record, other counsel employed by or otherwise actively assisting such counsel of record and under their supervision, and paralegals, secretaries and other persons under the supervision of counsel of record;

(b) District Attorney Paul Howard, his various deputy and assistant district attorneys, and paralegals, secretaries and other persons under the supervision of the District Attorney;

(c) Any testifying or non-testifying consultant, investigator or expert who is assisting in the preparation and/or trial of the Action, having been retained by or being under the supervision of defense counsel of record or District Attorney Howard;

(d) Defendants and persons reasonably expected to testify as witnesses in this case or reasonably believed by counsel to be potential witnesses;

(e) The Court and its personnel, and any jury empanelled for the trial of the case.

7. Before any Confidential Test Material is disclosed to any of the persons permitted access to Confidential Test Material under Paragraphs 6(a) through 6(d) above, other than defense counsel of record, the District Attorney, and attorneys employed by and under the supervision of defense counsel of record and the District Attorney, such person first must be

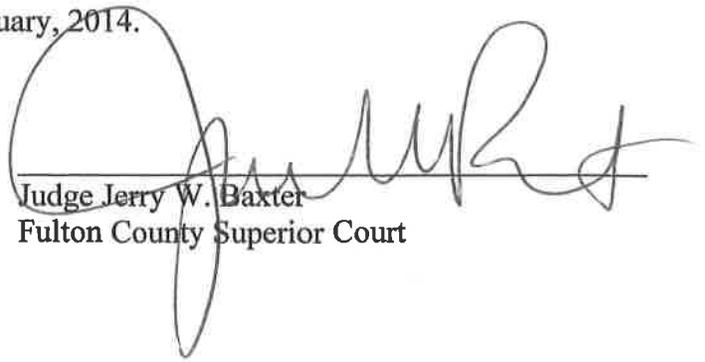
provided with a copy of this Order and sign a statement in the form attached hereto as Exhibit A agreeing to be bound by the terms of this Order.

8. The obligations and protections imposed by this Order shall continue beyond the conclusion of this case, including any appeals, or until the Court orders otherwise. Within sixty (60) days after receipt of a written request from the Designating Party, made after this case has concluded and any and all appeals have been exhausted and the time for any appeal has expired, all originals and copies of Confidential Test Material that can be found with reasonable efforts (other than exhibits and other evidence filed with the Court or included in transcripts of testimony) at the option of the Designating Party either shall be returned to the Designating Party or destroyed by the receiving party or parties. Upon written request by the Designating Party, counsel for any party receiving Confidential Test Material shall make written certification of compliance with this provision and shall deliver the same to counsel for each Designating Party within one hundred eighty (180) days after such request.

9. Any party seeking to introduce Confidential Test Material into evidence, or to present testimony that would reveal Confidential Test Material, will take reasonable steps to advise the Court that Confidential Test Material is being offered, discussed, or presented so that the Court may take measures to limit any disclosure of Confidential Test Material beyond what is reasonable and appropriate for use in pre-trial proceedings or at trial.

10. Any party may petition the Court for a modification of the terms of this Order for good cause shown, after notice and opportunity for a hearing. This Court shall have continuing jurisdiction to modify, amend, enforce, interpret or rescind this Order notwithstanding the termination of this case.

SO ORDERED this 28 day of February, 2014.



Judge Jerry W. Baxter  
Fulton County Superior Court

PRESENTED BY:

*/s/ Jennifer Colangelo*

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JENNIFER COLANGELO  
Assistant Attorney General  
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Atlanta, Georgia 30334-1300  
404-656-4168  
404-657-9932 (fax)  
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*/s/ David J. Bailey*

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[jcolangelo@law.ga.gov](mailto:jcolangelo@law.ga.gov)

**EXHIBIT A**

The undersigned has read and understands the terms of the Protective Order Governing Confidential Test Booklets and Answer Keys in this case, State of Georgia v. Beverly Hall et al., Case No. 13-SC-117954, which is currently pending in the Superior Court of Fulton County, Georgia. The undersigned agrees (i) to abide by the terms of the Protective Order Governing Confidential Test Booklets and Answer Keys; (ii) not to use or divulge, under penalty of law, any Confidential Test Material covered by the Protective Order Governing Confidential Test Booklets and Answer Keys, except as permitted by the terms of the Protective Order Governing Confidential Test Booklets and Answer Keys; and (iii) to submit to the jurisdiction of the Superior Court of Fulton County for resolution of any issues arising under the Protective Order Governing Confidential Test Booklets and Answer Keys.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

Printed: \_\_\_\_\_

FULTON COUNTY DISTRICT ATTORNEY'S OFFICE

Paul L. Howard, Jr.

District Attorney

Atlanta Judicial Circuit

404-730-4900 or 404-730-4911



Criminal Investigations Division

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SUBPOENA FOR THE PRODUCTION OF EVIDENCE

STATE OF GEORGIA  
FULTON COUNTY

TO: Georgia Department of Education/CTB McGraw-Hill  
Legal Administrator  
1554 Twin Towers East  
205 Jesse Hill Jr. Drive SE  
Atlanta, GA 30334

You are hereby required to be and appear before the Honorable Judge JERRY BAXTER, of the Fulton County Superior Court, located in Courtroom 4D at 185 Central Avenue, Atlanta, Georgia, 30303, at 9:30 AM on the 7<sup>TH</sup> day of April, 2014, and to bring the account of delivery and production with you into said Courtroom certain documents to wit, to be used as evidence by the State of Georgia in a certain case pending in said Court between the State of Georgia and Beverly Hall et. al., Fulton County Case Number 13SC-117954

The following are hereby subpoenaed to include but not limited to

- 1) All 2008, 2009, 2010 CRCT Test Answer Sheets for the Atlanta Public School District and related documents.

Herein fail not, under penalty of law..

So ordered this 12<sup>th</sup> day of February, 2014.

  
\_\_\_\_\_  
Clerk of Superior Court, Atlanta Judicial Circuit

**You may also comply with this subpoena by delivering these records and/or information to:**

**Inv. J. Griffin, Fulton County District Attorney's Office**  
136 Pryor Street, SW, Third Floor  
Atlanta, Georgia 30303  
Office - (404) 613-3409