

## 8 NYCRR 102.4

N.Y. Comp. Codes R. & Regs. tit. 8, § 102.4

Compilation of Codes, Rules and Regulations of the State of New York [Currentness](#)

Title 8. Education Department

Chapter II. Regulations of the Commissioner

Subchapter E. Elementary and Secondary Education

[Part 102](#). Elementary and Secondary School Examinations ([Refs & Annos](#))

### → **Section 102.4. Fraud in examinations**

(a) **Prohibited Student Fraud.** If, in the judgment of the principal responsible for administration of an examination under the authority of the Regents, upon the basis of evidence deemed by him to be sufficient, a student has been found guilty of having committed or attempted to commit fraud in the examination, the principal shall be authorized to cancel the examination and to exclude this student from any subsequent Regents examination until such time as the student has demonstrated by exemplary conduct and citizenship, to the satisfaction of the principal, that the student is entitled to restoration of this privilege. As used in this subdivision, **fraud** shall include the use of unfair means to pass an examination, giving aid to, or obtaining aid from, another person in any examination, alteration of any Regents passcard or other credential, and intentional misrepresentation in connection with examinations or credentials. Before such penalty shall be applied, the student accused of fraud shall be given an opportunity to make satisfactory explanations, including the right to appear before the board of education or a person or persons designated by such board, together with his parent or parents and, if so desired by the parent or parents, an attorney, all of whom shall be given the opportunity to ask questions of the examiner or examiners and any other person having direct personal knowledge of the facts. The board of education or the person or persons designated by the board for the purpose of such inquiry may affirm, modify or reverse the findings or penalty, if any, imposed by the principal. The principal shall report promptly to the commissioner the name of each student penalized under this regulation, together with a brief description of circumstances.

(b) **Prohibited Testing Misconduct.** Testing misconduct, assisting in the engagement of, or soliciting another to engage in testing misconduct, and/or the knowing failure to report testing misconduct in accordance with subdivision (d) of this section when committed by an employee of a school district, board of cooperative educational services or charter school in a position for which a teaching or school leader certificate is required, shall be deemed to raise a reasonable question of moral character under Part 83 of this Title and shall be subject to referral to the Office of School Personnel Review and Accountability at the State Education Department to the extent provided in Section 83.1 of this Title. Each school district, board of cooperative educational services or charter school employee in a position for which a teaching or school leader certificate is not required who commits an unlawful act in respect to examination and records that is prohibited by [Education Law section 225](#) shall be subject to disciplinary action by the board of education, the board of cooperative educational services or charter school in accordance with subdivision 11 of [Education Law section 225](#).

(c) For purposes of this section, testing misconduct shall include, but need not be limited to, the following acts or omissions:

(1) Accessing secure test booklets and/or answer sheets prior to the time allowed by New York State testing rules;

(2) Duplicating, reproducing, or keeping any part of any secure examination materials without obtaining prior written authorization from the State Education Department;

(3) Reviewing test booklets prior to test administration in order to:

(i) determine and record correct responses for use during testing;

referred to the Office of School Personnel Review and Accountability at the State Education Department.

Sec. repealed, new filed: May 20, 1968; Feb. 4, 1970 eff. immediately; amd. filed Apr. 29, 2014 eff. May 14, 2014.

8 NYCRR 102.4, 8 NY ADC 102.4

Current with amendments included in the New York State Register, Volume XXXVI, Issue 34, dated August 27, 2014.