



# LOUISIANA DEPARTMENT OF EDUCATION

July 23, 2014

Dear Board Officers:

As events of the last two months have unfolded, I have observed subtle shifts in the tone and substance of the public depiction of the Common Core State Standards and the Partnership for Assessment of Readiness for College and Careers (PARCC) assessment by some who oppose their implementation. As I will detail in this letter, the rhetoric has increasingly insinuated that the Department's motivations – perhaps even my own motivations – for supporting the Common Core standards or the PARCC test questions are potentially nefarious.

Recent communications have heightened my concerns that this rhetoric may lead to unfounded allegations, or even the appearance of allegations, most likely connected to the state's relationship to the PARCC consortium of states.

In anticipation of this, I want to ensure that you have the full facts of the situation so that, in the event of escalated rhetoric, you can assess the circumstances in light of all available facts.

## Escalating Rhetoric

Throughout the legislative session, the Governor and his staff focused their public comments on objections to the standards and tests but not on the Department of Education specifically. April 14, for example, the Governor stated, "We're hopeful that legislation will move through the process this session that will address the concerns of parents or delay implementation until these concerns can be addressed."

Promptly following the session, which concluded June 3, the Governor began to focus his criticisms directly on the Department for the first time: "It is time for the Department of Education to come up with a Plan B. I am committed to getting us out of PARCC, out of Common Core."

During his June 18 press conference announcing a set of anti-Common Core measures, the Governor was more pointed, asserting that BESE and the Department had not followed procurement law, though providing no specific actions either agency took in violation of the law: "They've not followed the state bid laws."

That day the Division of Administration also launched "a comprehensive accounting of all Louisiana expenditures and resources used on PARCC, what services or products have been received in return for these expenditures."

That was followed June 26 by explicit Facebook statements from the Governor's most recent appointee to BESE, Jane Smith, suggesting that there be an investigation by the Legislative Auditor: "Hey, I am hearing great things about ACT. Why wouldn't we look at other tests. Oh, the superintendent is a sitting board member for PARCC . Go figure!!! Bring in the Legislative auditor,,,,,,,,,"

Then, July 3, upon BESE voting to retain outside counsel while negotiations on the suspended testing contracts continued, Commissioner Kristy Nichols stated that BESE and the Department had failed to comply with procurement rules, and restricting both agencies' contracting discretionary authority to \$2,000: "OCR's review of state education assessment contracts uncovered concerns related to DOE's compliance with procurement

**Louisiana Believes**



procedures. For this reason, it is important that any new contracts be reviewed by OCR to ensure compliance with applicable laws, regulations and executive orders.” Still neither the Department nor BESE had been informed of any specific actions or negotiations that violated state law.

July 14, Mr. Roemer notified me that he too had engaged in conversations in which others had alluded to purported improprieties within the Department and had implied political action on the horizon.

Upon release of a compromise proposal from BESE July 16, the Administration released a 10-page memo detailing amendments to contracts, going back years in some cases, and all approved by the Administration, that were purportedly out of line with the contracts’ original scopes of work. Regarding the Department of Education and its staff, Administration counsel Liz Murrill made more aggressive accusations: “If you’re not operating in good faith, you’re gaining the system. If you’re gaining the system and you’re a public servant, I think you’re doing something wrong.”

The next day, in summarizing a well-documented meeting between the Governor and me, chief of staff Kyle Plotkin alluded to issues of political corruption: “So we spent a lot of the time talking about the history of corruption, and then why it’s so important to follow the law. The governor reiterated to John what we’ve been saying for the past couple of weeks: the importance of following the law.... No agency or agency head is above following the law.”

Finally, July 22, Ms. Smith alluded to allegations on the horizon in a Facebook posting: “There is something very disturbing about an agency head and some members that are so married to Pearson/PARCC / Common Core. IT WILL EVENTUALLY BE REVEALED. AUDITS AND LAWESUITS [sic] ARE GOING TO CONTINUE..... HOW ABOUT SOME ETHICS VIOLATIONS ON TRAVEL AND LODGING PAID FOR BY FOLKS WHO GOT CONTRACTS FROM THE DEPT. OF EDUCATION (capital letters hers).”

I am not a stranger to politics, and I know that political rhetoric can be heated. However, to have multiple officials alluding to the potential of purported and unfounded malfeasance within our agency and within my office, all within days of one another, is worthy of concern. Given this, and more specifically given the specificity of actions expressed in Ms. Smith’s posting, I would like to provide you a detailed explanation of the facts regarding the state’s relationship with PARCC, the application of travel reimbursements to the PARCC grant, and the process I undertake when incurring travel expenses generally.

### **Background on Relationship with PARCC**

PARCC is not a testing services vendor and would not bid on any request for proposal for comprehensive testing services contracts. However, in light of the insinuations, and to be clear regarding this issue, let me state that there is no means whereby any member of my team or I could financially benefit from a relationship the Department has with a testing services vendor, or from the Department’s choice of test questions. What follows is an explanation of why some parties may have insinuated that the state’s relationship with PARCC would allow for such a benefit, why this insinuation is plainly erroneous, and how the state pays for travel expenses.

PARCC is a consortium of states committed to developing a better blueprint for standardized testing. PARCC is not a testing services vendor and would not bid for a testing services contract. PARCC is a process, funded by a federal grant, whereby participating states develop intellectual property, including a large volume of test questions.

The often-discussed PARCC Memorandum of Understanding (MOU) is our state’s pledge to the consortium that it will complete its obligations in designing the test blueprint. Governor Jindal signed the MOU in 2010, as did the

**Louisiana Believes**



former BESE President and former State Superintendent, more than a year before I was named State Superintendent.

Under the MOU, Louisiana is a “governing state” meaning that its representatives have voting authority on policy decisions and that it dedicates staff to developing new test questions and policies, as Louisiana would were our state to sustain its own grade 3-8 English and math tests. I am a “governing board” member of the consortium, but this is an advisory role, as the PARCC consortium is a group of states and not a corporation. Instead, each individual state is a recipient of the same federal grant; this is what ties the states together in this process.

There is no procurement process, contract negotiation, or financial transaction at all necessitated by the PARCC MOU. In fact, the MOU stipulates that the “MOU does not constitute a financial commitment” and that states are “subject to ordinary budgetary and administrative procedures.” Not only is PARCC not a vendor, but also being a part of the consortium does not preclude a competitive bid process.

The MOU does state that participation in the PARCC process as a grant recipient entitles the state to receive donations reimbursing the state for specific expenses, as is true with many federal grants: “A Governing State may receive funding from the Consortium to defray the costs associated with intra-State communications and engagements.” Thus, over the course of the years, since the Governor and others signed the MOU, the PARCC consortium has provided Louisiana grant-funded donations to compensate for the state reimbursing me and others for travel expenses related to the PARCC process.

### **Background on Code of Ethics and Payment for Travel and Lodging**

The Board of Ethics provides the following guidance regarding funding for travel and lodging in the course of a public official’s job responsibilities:

*May a private source who is not a prohibited source under Section 1115 (of the Code of Governmental Ethics) make a donation to the public servant’s agency which, in turn, can be used by the agency to reimburse the public servant for travel expenses?*

*Yes. If a donation is made to a public agency by a non-prohibited source, the agency may then choose to use the donated funds in any manner legally permissible.*

When I travel, I pay for the expense up front using a personal credit card. I then provide a receipt for the services to my assistant, who seeks reimbursement from the state, if appropriate and per state guidelines. In the event the expense incurred was in partnership with or in the service of an organization not prohibited by state law from making a donation, and in the event that organization offers to donate the cost of travel expenses, the organization provides a donation to the state in the amount of my travel expenses. I file the appropriate form at that time with the Board of Ethics, notifying them of such a transaction, for their review.

I have never received a reimbursement for travel or any other expense directly from an outside organization. I have only received reimbursements directly from the state.

In the case of PARCC, as a participant in a federal grant, the state has received funding to compensate for reimbursing me for travel expenses, as established in the MOU and as allowed by the Code of Governmental Ethics, without question.

Finally, I have been asked about donations to the state made by other organizations as well, in particular Teach For America, which has held contracts with the state since 1999. In three cases during my tenure as State Superintendent, I have delivered speeches or presentations at educational seminars hosted by Teach For America. In each case, the organization has made a donation to the state to compensate for costs expended for my travel to the event.

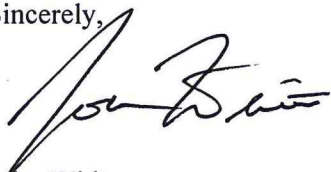
**Louisiana Believes**

This is explicitly allowed under the Code of Governmental Ethics, which provides the following exception to rules that may restrict donations from for-profit or non-educational organizations: “The acceptance by a public servant of complimentary admission to, lodging reasonably related to, and reasonable transportation to and from an educational or professional development seminar or conference held in any state of the United States or Canada, provided that (i) the public servant is requested or invited to attend by the sponsoring civic, nonprofit, educational, or political group or organization, (ii) the sponsor is not a person from whom the public servant is prohibited from receiving or accepting a gift pursuant to [R.S. 42:1115\(A\)\(2\)](#), (iii) the seminar or conference is related to the public service of the public servant and is designed to enhance the knowledge or skill of the public servant as it relates to the performance of his public service, and (iv) the public servant’s agency head approves the acceptance” (R.S. 42:1123).

Just as important, in each case, I submitted a notarized ethics form documenting the transaction to the Board of Ethics for their review and consideration. You can find all such forms on the Board of Ethics web site.

I hope that this letter summarizes these circumstances to your satisfaction. I am happy to make any of the documentation associated with the above issues available upon request. I greatly appreciate your attention to the issue and will be glad to address any specific concerns as well.

Sincerely,

A handwritten signature in black ink, appearing to read "John White", written over a horizontal line.

John White  
State Superintendent

C: Heather Cope, Executive Director  
Joan Hunt, General Counsel

Louisiana Believes