

**Decisions, Concerns and Questions Pertaining to Two
2017 Statewide Assessment Events Involving
Algebra I and English II EOCs of the
Missouri Assessment Program**

**Submitted to
Governor Eric Greitens**

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**October 23, 2017
Missouri Coalition Against Common Core (MCACC)**

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EXECUTIVE SUMMARY

1.1 Background

Two events in 2017 involving End-of-Course (EOC) assessments of the Missouri Assessment Program (MAP) have raised public concern. These events are: (1) Department of Elementary and Secondary Education's (DESE) management of the effects of "technological issues" on Spring 2017 student EOC scores. DESE instructed a vendor, Questar, to generate derived scores for 176 "malformed" and "unscorable" Spring 2017 Algebra I EOC performance event responses.¹ In addition, DESE minimized communication about the effects of a statewide computer slowdown on the scores of students taking EOC assessments on April 25, 2017²; and (2) DESE is withholding results of two Common Core (CC)-Aligned EOCs from the State Board of Education, school district administrators, and the public without clear explanation of why the data are being withheld.³ A review of documents available on the DESE Technical Advisory Committee (TAC) webpage and Office of Administration website indicate that the unreported data are associated with inequivalent EOC assessment forms developed by CTB/McGraw-Hill and DESE and administered alternately since Fall 2014. Implications of these events are linked to DESE's recommendation that school districts use EOC raw scores as final exam grades.⁴

Missouri Coalition Against Common Core (MCACC) is a grass roots network of citizens that coalesced around the goals of restoring parent authority over their children; personal decision-making over one's personal information, education, and vocation; and state sovereignty over public education. In other words, we work for the protection of our inalienable rights and limited government. MCACC has several concerns. First, if DESE instructed vendor psychometricians to generate derived scores for unscorable responses and the derived scores are entered into individual student records; and DESE recommends that school districts use EOC raw scores for course exam grades; then, DESE is recommending that districts insert unreliable scores into students' transcripts and data files without notifying affected parties. Misrepresentation of students' course achievement may affect student graduation, selection for postsecondary program entrance, or qualification for financial aid resulting in detrimental effects on students, students' family finances, and Missouri taxpayers.

Second, assessment results are only meaningful if assessment items and assessments are valid and reliable, if standardized procedures are executed as per instructions; if reports originate from

¹ <https://dese.mo.gov/sites/default/files/asmt-tac-eoc-alg1-pe-issue-report-062917.pdf>

² <https://dese.mo.gov/sites/default/files/asmt-tac-eoc-network-slowdown.pdf>

³ <http://www.news-leader.com/story/news/education/2017/08/30/dese-not-release-results-two-key-high-school-enot-all-state-test-scores-released-year-state-announce/618445001/>

⁴ <https://dese.mo.gov/sites/default/files/asmt-eoc-curved-percentages.pdf>

authentic, student-generated responses; and are used for appropriate purposes.^{5, 6} A review of pertinent documents indicates these criteria for meaningful assessment results have not been met. DESE's failure to explain the effects of "technological issues" and the effects of inequivalent assessment forms on standardized assessment results violates professional standards of practice and the public's expectations for government transparency and accountability.⁷ Apparently, decisions about students were, and are being made based on unreliable data while students and parents are not informed.

Finally, since Spring 2013, appropriations legislation prohibited expenditure of funds on implementation or support of Common Core State Standards (CCSS). Yet, DESE contracted with CTB/McGraw-Hill in September 2013 for the development, administration, scoring and reporting of CC-aligned EOC assessments. Various vendors have administered the CTB-DESE developed forms in rotation since Fall 2014. The 2017 assessment events were avoidable had DESE and the State Board of Education complied with the appropriations legislation.

1.2 Purpose of Report

The purpose of this report is to provide documentation to support the legitimacy of the public's concerns about an ongoing pattern of unprofessional behavior of DESE personnel under the supervision of the State Board of Education and recommend remedial actions.

1.3 The Aims and Objectives

- Provide a year-by-year timeline of activities undertaken by the past administration, the past and current commissioners of education, and past and current state board of education members culminating in development and administration of CC-aligned EOCs that were the focus of the aforementioned assessment events;
- Provide excerpts of pertinent documents – including reports to DESE's TAC, news articles of both events, as well as critiques of Smarter Balanced Assessment Consortium (SBAC)-developed assessment items from credible external reviewers;
- Provide commentary synthesizing the implications of the events and evidence;
- Recommend 10 remedial actions to address concerns.

1.4 Conclusion

Leaders of Missouri's state government have an obligation to investigate the actions and decisions of DESE personnel and members of the State Board of Education and take action commensurate with their findings.

⁵ <https://www.geneseo.edu/sites/default/files/sites/education/p12resources-best-practices-in-educational-assessment.pdf>

⁶ See sample test administration guidelines <http://www.marketing.etsglobal.org/POLAND/Mailing/2015/05/E-Link39/Test%20Administration%20Procedures%20TOEIC%20LR,%20Bridge,%20TFI-secured%281%29.pdf>

⁷ <https://dese.mo.gov/sites/default/files/EndofCourseSept2017.pdf>

2. Event I: DESE’s Decision To “Score” 176 Unscorable Algebra I Assessment Responses With Derived Scores Without Notifying Students And Families or School Administrators

2.1 Current Status

A May 19, 2017 article, “Testing glitch frustrates students, administrators, State to review contract with test vendor,” written by Koby Levin, was published in *The Joplin Globe*.⁸ Levin reported that a computer slowdown occurred while thousands of high school students were in the middle of completing their EOC exams. The slowdown originated in a data center operated by Questar (the vendor contracted by the Office of Administration on June 6, 2016 to administer the end-of-course test⁹). Two days after the slowdown, superintendents across the state received an email from Commissioner of Education Margie Vandeven explaining the problem -- Questar shifted its operations to a new data center in 2016. ETS acquired Questar Assessment Inc., which became a separate, for-profit subsidiary of ETS, as announced in press releases by both ETS and Questar on January 27, 2017.^{10,11}

Two hundred and fifty-one districts were affected by the slowdown which included a concentration of districts in southwest Missouri (Carl Junction, Joplin, Sarcoxie, Carthage, Webb City, Diamond, and Nevada) and St. Louis. The effects of the slowdown were described as a “passing inconvenience” for many districts. The article reported that 14, 666 students were affected and that the number was “a fraction of the more than 120,000 who took the test that day.” Commissioner Vandeven is quoted as describing the slowdown an “inconvenience” placed on students and schools.

Questar Assessment, Inc. (Questar) submitted a report, *Deriving Scale Scores for Students with Unscorable Algebra I Performance Event (PE) Responses* to DESE’s TAC indicating that DESE instructed the vendor to generate derived scores for the 176 unscorable Algebra I performance event (PE) responses that resulted from “technological issues” which could include the slowdown among other issues; and that “The DESE requested that Questar move forward to produce student reports to prevent reporting delays.”¹² Contacts with personnel in several school districts in different parts of Missouri indicate that administrators were not informed about the derived scores. No evidence appears on the DESE website alerting the public (students or families) about the incident.

⁸ http://www.joplinglobe.com/news/local_news/testing-glitch-frustrates-students-administrators/article_068b3d3d-acc4-5c48-933f-9618599ee5dc.html

⁹ <https://awardedsearch.oea.mo.gov/PublicAccess/!CustomSearchPages/PublicAccessProvider.ashx?action=ViewDocument&overrideFormat=PDF>

¹⁰ <http://www.questarai.com/company/press-and-media/ets-acquire-questar-assessment-inc/>

¹¹ <http://news.ets.org/press-releases/ets-acquire-questar-assessment-inc/>

¹² <https://dese.mo.gov/sites/default/files/asmt-tac-eoc-alg1-pe-issue-report-062917.pdf>

2.2 Research Method

Research conducted to gather publicly available information as evidence for MCACC concerns included a review of excerpts from written content found in online news articles about the incident; information posted on the DESE and Office of Administration websites and Missouri Accountability Portal; statements of DESE personnel observed in recorded content of an August 30, 2017 webinar conducted by DESE personnel for district assessment coordinators; observation of Commissioner Vandeven's responses to State Board of Education member questions at the September 2017 board meeting; and brief telephone surveys of school district personnel in two different school districts affected by the slowdown.

Data were arranged according to source of origin with descriptions of pertinent content to develop an analysis and interpretation of events and discuss the effects of the computer slowdown on Missouri students, families, and taxpayers.

2.3 Analysis of Evidence

Available evidence indicates that DESE personnel instructed Questar to generate derived scores for unscorable Algebra I Performance Event (PE) responses. The "malformed" responses occurred during the Spring 2017. A computer slowdown occurred on April 25 of that assessment window. Interviewee responses indicate that all students received scores, but they were unaware of unscorable results, indicating that the derived scores were inserted into individual student records. Negative effects of DESE's decision have particular importance because DESE advises school districts to count EOC scores as final exam course grades. DESE must be held accountable for its decisions and answer questions about the implications of its decisions on all students affected by the computer slowdown and the 176 students with unscorable responses.

2.3.1 Information Publicizing the Event to the Public

- A *The Joplin Globe* article of May 12, 2017, reported that a computer slowdown occurred while thousands of high school students were in the middle of completing their EOC exams.¹³ Two days after the slowdown, superintendents across the state received an email from Commissioner of Education Margie Vandeven explaining the problem -- Questar shifted its operations to a new data center in 2016.

Two hundred-fifty one districts were affected by the slowdown which included a concentration of districts in southwest Missouri (Carl Junction, Joplin, Sarcoxie, Carthage, Webb City, Diamond, and Nevada) and St. Louis. The reporter described the

¹³ http://www.joplinglobe.com/news/local_news/testing-glitch-frustrates-students-administrators/article_068b3d3d-acc4-5c48-933f-9618599ee5dc.html

effects of the slowdown as a “passing inconvenience” for many of those districts. The article reported that 14, 666 students were affected and that the number was “a fraction of the more than 120,000 who took the test that day.”

The article explained that depending on district policies, EOC scores may affect completing a graduation requirement (for example, at Carthage High School); affect a course grade in which an individual student’s test result counts as 20% of the final grade in the related course (and becomes a component of a student’s Grade Point Average (GPA)); and affect qualification for scholarships to postsecondary programs (for example, Algebra I test scores are qualifiers for Missouri’s A+ Scholarship program).

- The *Joplin Globe* article was reposted by 4 Traders, an investment website; *Scholarshipweb*, an education news website; and *FairTest*, a Massachusetts-based educational organization that tracks and reports standardized testing abuses.^{14, 15, 16}
- *FairTest* commented as follows:

The ongoing litany of computer exam administration failures reinforces the conclusion that the technologies rushed into the marketplace by political mandates and lobbying by the companies paid to implement them are not ready for prime time. It makes no sense to attach high-stakes consequences to such deeply flawed tools.

2.3.2 Information from DESE Website and Missouri Accountability Portal

- Missouri’s contract with Questar extending from June 6, 2016 through December 31, 2017 for online administration of MAP EOCs indicates that the state of Missouri awarded a multi-million-dollar contract to Questar with the total amount varying according to the number of students tested.¹⁷
- A screen shot of the Expenditures page from the Missouri Accountability Portal taken at about September 15, 2017, indicates that for Fiscal Year 2017, the state of Missouri paid Questar Assessment, Inc. over \$4, 517,854 for professional services and program consultant services as of September 10, 2017.¹⁸

¹⁴ <http://www.4-traders.com/QUESTAR-CORPORATION-14498/news/Questar-Testing-glitch-frustrates-students-administrators-24459109/>

¹⁵ <http://scholarshipweb.net/tag/testing-glitch-frustrates-students-administrators>

¹⁶ <http://www.fairtest.org/sites/default/files/ComputerizedTestingProblemsChronology.pdf>

¹⁷ <https://awardedsearch.oe.mo.gov/PublicAccess/!CustomSearchPages/PublicAccessProvider.ashx?action=ViewDocument&overrideFormat=PDF>

¹⁸ (NOTE: the 2017 data reporting expenditures to Questar Assessment Inc. was not available on the Missouri Accountability Portal when the site was accessed September 19, 2017.)

2.3.3 Information from Questar Reports Submitted to DESE's TAC

- May 31, 2017, Questar Assessment, Inc. presented a report to DESE entitled, *MO EOC Spring 2017 Online Testing Network Slowdown*.¹⁹ The document presented,

. . . descriptive analysis investigating the network slowdown due to the high volume of Missouri EOC test takers on Tuesday, April 25, 2017. . . [to determine] whether the students who experienced the network slowdown may have been disadvantaged compared to those who did not experience the network slowdown. (p. 1)

A consistent pattern of performance was not observed for the students who experienced network slowdown across content areas. Rather, various patterns were evident. Looking at the percent of students in the Proficient and Advanced performance level (Proficient + Advanced), there was a higher percent of network-slowdown students compared to the Spring 2017 population for Algebra I, Biology, and Geometry. However, **there was a lower percent of network-slowdown students in the Proficient + Advanced performance level compared to the Spring 2015, 2016, and 2017 populations for English II, English I, Government, and Physical Science.**

- June 29, 2017, Questar submitted a report to DESE's TAC entitled, *Deriving Scale Scores for Students with Unscorable Algebra I Performance Event (PE) Responses*.²⁰ The document described,

. . . how scale scores were derived for students whose Session 2 **Algebra I performance event (PE) responses were rendered unscorable due to technological issues** and includes additional analyses performed at the request of the Missouri Department of Elementary and Secondary Education (DESE) and Technical Advisory Committee (TAC). There were **176 students affected by the technology issue.** The DESE requested that Questar **move forward to produce student reports to prevent reporting delays.**²¹

¹⁹ <https://dese.mo.gov/sites/default/files/asmt-tac-eoc-network-slowdown.pdf>

²⁰ <https://dese.mo.gov/sites/default/files/asmt-tac-eoc-alg1-pe-issue-report-062917.pdf>

²¹ The Questar report did not mention how the 176 scores, unscorable for state accountability purposes, were reported to districts earlier in the year, or in which school districts the students assigned the derived PE scores were enrolled.

Questar statistically linked student performance on Session 1 of the Algebra I test to student performance on the full Algebra I test. Session 1 consisted of 40 machine-scored items (40 points), and Session 2 consisted of one hand-scored PE (10 points) for a maximum score of 50 points. The statistical linking process placed the scores earned on Session 1 onto the scale used to report scores on the full test. Thus, the linked Session 1 scale scores are comparable to scale scores from the total test. Due to score reliability and content differences, the linked scale scores will not be considered completely exchangeable with the full test scale scores. In other words, *it will not be a matter of indifference to individual students whether their scale scores are based on Session 1 only or on the full test.* (underline and italics added)

Additional analyses were conducted at the request of DESE and TAC during the June 2, 2017 conference call. The additional results include raw score summary statistics for the general population (i.e., students not affected by the PE issue) and the students affected by the PE issue, correlations of the scores from the two test sections, and actual and projected PE score results for the non-affected students. (p. 1)

The group of students affected by the malformed PE responses was lower-performing than the students not affected by the PE readability issue, as indicated by the percent of students achieving the Proficient and Advanced level (17.05 versus 60.40, respectively). (p. 5)

Results indicate that **performance on Session 1 and the total test for the PE-affected students is about one standard deviation lower than the general population.** (p.6)

Quartar's word choice describing the cause of unscorable results as "technical issues" hides the origin of the problem. It is unclear whether the unscorable PE responses were associated with the computer slowdown, or caused by some other technical factor arising during the transmission of student responses to the scoring vendor. The concern, however, is not that the responses were unscorable, but apparently, DESE chose to insert derived scores as replacements for hand-generated scores of authentic student PE responses.

2.3.4 Statements of DESE Personnel

- In the May 19, 2017 *Joplin Globe* article referenced above, Commissioner of Education Vandeven is quoted as describing the slowdown as an "inconvenience" placed on students and schools.

- The morning and afternoon of August 30, 2017, DESE personnel, including Commissioner of Education Margie Vandeven; Communications Director, Sarah Potter; Deputy Commissioner, Dr. Stacy Preiss; Coordinator for Assessment & Curriculum Program Administrator, Lisa Sereno; Assistant Commissioner of the Office of Quality Schools, Dr. Chris Neil; Assistant Commissioner of the Office of College & Career Readiness Dr. Blaine Henningsen; and General Counsel Bill Thornton, conducted a webinar for District Test Coordinators throughout Missouri to announce DESE’s decision not to release Algebra I and English II EOC test results. During the morning webinar, a participating test coordinator wrote the following question in the chat box (visible at the 10:24 minute mark), “Has DESE considered taking the outages that took place during the testing process into consideration for their validity?”²² The question was not selected for real-time response by DESE staff present at the webinar.

During the afternoon webinar, Asst. Commissioner Chris Neil stated, “ . . . Will this work for A+? Yes! Absolutely, if a student scored Proficient on an Algebra exam, then they can be qualified for A+. Absolutely . . . Certainly, the raw scores are very usable. I wanna emphasize that we don’t have any question about validity or reliability – only comparability, and that is the challenge in the APR . . .” (approx. 8. 45-minute mark)

- At the September 19, 2017 State Board of Education meeting, Commissioner Vandeven was questioned about the advice from Department personnel encouraging school districts to incorporate EOC raw scores in student grades. She responded that school administrators complain students do not take statewide assessments seriously, and they were seeking advice on how to motivate students to change their attitude and improve test scores.

2.3.5 Statements from District Personnel

- In the May 19, 2017 *Joplin Globe* article referenced above, Sarcoxie Superintendent Kevin Goddard is quoted as stating, “Any time something abnormal happens, it causes more stress for kids and teachers, which can affect results.”
- MCACC researchers contacted district personnel in two school districts in different corners of the state affected by the computer slowdown with the questions,
 - “Were school administrators aware of any unusable test scores?”
 - “Did every student taking the Algebra I EOC receive scores?”

Responses from all sources given under conditions of anonymity were, “No, school administrators were not aware of any unusable test scores,” and “Yes, every student received scores.”

²²https://desemo.adobeconnect.com/_a754202577/pp36r26ljhty/?launcher=false&fcsContent=true&pbMode=normal

When comparing the same administration sessions in the last row of the table, results indicate significant swings across time. The two Fall administrations using Form G (2014 and 2016) show similar percentages of student scores classified as Proficient+Advanced (see red circled data). However, when Form H is administered in Fall 2015 (see blue circle), the percentage significantly declines. Clearly Form H is not equivalent to G, and in the Fall population taking the assessment, Form H seems more difficult. In Spring, the forms were alternately administered over the same three years (see highlighted numbers) but to much larger populations (see p. 50, Table 4.1). The same pattern of similar scores for Form H is observed, with Form G percentage being higher, indicating that Form G is easier than Form H. Because form inequivalence compromises assessment reliability, it is impossible to assess the true effect of the April 25, 2017 computer slow-down on student achievement based on the data reported.

2.4.1.2 Questions

- How did DESE’s TAC arrive at any decisions about the full effect of the April 25, 2017 computer slowdown without sufficient information?
- What is meant by Questar’s word choice of “technical issues”? Does the phrase refer to the computer slowdown or to the transfer of student PE responses to the scoring vendor, or both? What criteria were used to identify responses as unscorable?
- Why were only 176 students’ responses identified as unscorable when all students affected by the slowdown submitted responses under unstandardized conditions?
- What effect did “technological issues” have on other subject areas other than Algebra I?
- Assuming raw scores are reliable indicators of student achievement (which will be discussed later), if EOC raw scores from assessments having different levels of difficulty are incorporated into course grades, how can the grading criteria be “fair and equitable” from one school year to the next?

2.4.2 Limited Public Awareness of the Computer Slowdown and Effect on Student Scores

2.4.2.1 Comments

A review of the evidence indicates that Questar was responsible for the computer slowdown, but it is not known whether the April 25, 2017 slowdown is referenced by the “technical issues” referred to in Questar’s report of processing derived scores. Questar was not responsible for how DESE chose to handle communications about the slowdown, or DESE’s decisions about management of the unscorable responses. An internet search using the bing.com search engine reveals that only one Missouri newspaper published an article about the April 25, 2017 slowdown. It is striking that according to that article, 251 districts -- about half of the 518 school

districts in Missouri, including at least one major metropolitan area (St. Louis), were affected yet, the public remained largely unaware of it.²³

Considering that

- a district test coordinator participating in the August 30 webinar was unaware of DESE's response to managing the effects of the computer slowdown, and other test coordinator participants who were logged into the webinar asked questions about the effects of unscorable EOC Algebra I data on the general population for student scholarship qualification, and
- responses to questions posed to district personnel indicate that school administrators did not know about unscorable responses, and
- all students received scores,

it is reasonable to assume that the 176 students whose Algebra I EOC PE responses were rendered unscorable were not notified or offered the opportunity to retake the performance event. Nor have the 14,000+ students who were at least partially impacted by the slowdown – or their schools – notified of the likelihood that their scores on the Algebra I EOC were likely depressed by about one standard deviation.

The *Joplin Globe* reporter minimized the negative consequences of the non-standard administration of a standardized assessment when he referred to the thousands of students affected as a “fraction” of the total number who took the EOCs. He appears to mimic the messaging of the commissioner, referring to the slowdown as “an inconvenience” effectively functioning as a public relations agent for DESE rather than an investigative reporter for the public. However, characterizing the effects of the slowdown as an “inconvenience” is misleading at best and self-serving at worst.

The slowdown compromised the standard procedures of a standardized assessment which in turn confounds the interpretability of all student scores associated with the slowdown. Bob Schaeffer, public education director at *FairTest* explained:

When the testing administration system is dysfunctional, the results are suspect, if not useless. . . . The theory of standardized testing is that students are given equivalent questions in the same format and the same way, . . . When you have some kids having a smooth testing experience and others having repeated disruptions, it's no longer standardized.²⁴

²³ <https://mcids.dese.mo.gov/quickfacts/Missouri%20School%20Directory/2017/2017%20Missouri%20School%20Statistics.pdf>

²⁴ https://www.washingtonpost.com/local/education/technical-glitches-plague-computer-based-standardized-tests-nationwide/2016/04/13/21178c7e-019c-11e6-9203-7b8670959b88_story.html?utm_term=.425786aef921

The “fraction” of students affected computes to about 12% of the total number of test takers.²⁵ When the public considers that the federal dollars awarded to Missouri amounts to under 9% of the state’s education budget, it is logical to conclude that the opportunity cost to Missourians for DESE’s pursuit of those dollars (a mere fraction of the total budget) may be too high. Elimination of testing used to pursue federal money designated for Supplement-Not-Supplant (SNS) funding such as Title I grant money, might well be considered only an “inconvenience” in the minds of taxpayers.^{26,27}

2.4.2.2 Questions

- Why did DESE minimize the effects of the computer slowdown event as an “inconvenience” when over 10% of Missouri high school students who took the EOCs were affected?
- Why weren’t all students, their families, and school district administrators officially informed about the suppression of student scores resulting from the computer slowdown?
- Why weren’t the 176 students whose PE responses were identified as unscorable directly contacted and offered an opportunity to retake the assessment at state expense?
- Why did only one Missouri news outlet disseminate information about the slowdown to the public?
- Why did the content of that sole news article reflect the Commissioner’s word choice? Does DESE select sympathetic news outlets to control the narrative of events affecting the public?
- How did DESE’s communication director make decisions about publicizing information about the computer slowdown?

2.4.3 Cheating on Standardized Assessments at the State Level

2.4.3.1 Comments

Campbell’s Law is a well-known adage in social research methodology: “The more any quantitative social indicator is used for social decision-making, the more subject it will be to corruption pressures and the more apt it will be to distort and corrupt the social processes it is intended to monitor.”²⁸ State departments of education are not exempt from Campbell’s Law. Rather than respect the right of students to represent themselves in the formation of their assessment scores – scores that in some districts affect their GPA or graduation and scholarship qualification -- DESE personnel chose to “cheat” on standardized assessment results at the state

²⁵ <https://www.census.gov/content/dam/Census/library/publications/2015/econ/g13-aspef.pdf>

²⁶ <https://www.federalregister.gov/documents/2016/09/06/2016-20989/title-i-improving-the-academic-achievement-of-the-disadvantaged-supplement-not-supplant>

²⁷ <https://www.help.senate.gov/chair/newsroom/press/alexander-administrations-supplement-not-supplant-regulation-raises-grave-questions-about-what-to-expect-from-future-regulations>

²⁸ <http://searchbusinessanalytics.techtarget.com/definition/Campbells-Law>

level. That is, DESE directed Questar to calculate virtual performance event (PE) scores for students whose responses were unscorable to avoid the “inconvenience” of reporting delays.

Much like reports of widespread school cheating on standardized assessments at the district level (e.g., teachers erase incorrect student responses on standardized paper and pencil assessments and replace them with teacher-made responses to enhance district assessment scores) DESE instructed Questar to fabricate derived scores for unscorable Algebra I EOC responses. Moreover, DESE did not report the decision to the public, despite the fact that the derived scores represent the affected students as being lower performing than those with usable scores by about one standard deviation.²⁹

Apparently, DESE’s agenda of expediency took priority over the rights of the individual students to represent themselves in an evaluation that has implications for their future.³⁰ While DESE attempts to control for district level cheating on statewide assessments by contracting for online administration, who controls for cheating when DESE manipulates scores? When individual human beings are reduced to virtual numbers for expediency of a government-run agency, something is very wrong with government. Supposedly, the State Board of Education has responsibility for the supervision of instruction in the public schools per the Missouri Constitution Article IX Section 2(a), but board members have demonstrated an almost blind trust in what DESE personnel tell them, making little effort to verify statements in public meetings.

2.4.3.2 Questions

- Why did DESE personnel believe expediting reports took priority over students presenting their own work in assessments that are supposed to measure what students know and are able to do?
- Why didn’t DESE notify students of the decision to replace unscorable responses with derived scores and offer them an opportunity to retake the assessment?
- What is the financial cost to develop, administer, score, and report the results of statewide assessments that meet the qualifications of federal grants that pay for supplemental programs (that is, they do not replace local and state funding for education)?
- What assessment data are available to demonstrate whether there are positive effects of federally-supported programs on student learning?

²⁹ <http://fairtest.org/sites/default/files/CheatingReportsList.pdf>

2.4.4 Coercing Student Participation in Statewide Assessments

2.4.4.1 Comments

Black's Law Dictionary defines coercion and moral coercion as follows:

Compulsion; force; duress. It may be either actual, (direct or positive.) where physical force is [sic] put upon a man to compel him to do an act against his will, or implied, (legal or constructive.) where the relation of the parties is such that one is under subjection to the other, and is thereby constrained to do what his free will would refuse. State v. Darlington, 153 Ind. 1, 53 N. E. 025; Cliappell v. Trent, 00 Va. S49, 19 S. E. 314; Radicli v. Ilutohins, 95 U. S. 213, 24 L. Ed. 409; Peyser v. New York, 70 N. Y. 497. 20 Am. Rep. G24; State v. Boyle, 13 R. I. 53S.³¹

[Moral coercion] a term that means to exert extreme pressure on a person to . . . do or not do a thing.³²

Coerced participation in state accountability measures is described by news outlets as “encouragement,” but failure to participate in the statewide assessment results in a hefty penalty imposed on students by districts if parents or emancipated students opt out of the assessments. DESE’s “encouragement” of school districts to include EOC raw scores as final exam scores in their course grades is promoted as elimination of double testing. However, that recommendation appear to be a backdoor strategy of usurping parent control of children’s education and using districts to coerce student participation in statewide assessments in order for DESE to meet its goal of 95% student participation. Furthermore, “encouragement” is an inaccurate description of the state’s actions. A May 23, 2017 Administrative Memo from Assistant Commissioners Dr. Blaine Henningsen and Dr. Chris Neale to school administrators states that data from the Fall 2017 and Spring 2018 assessment windows collected by the assessment vendor “will be used to ensure that the 95 percent participation rate required for federal accountability purposes is met.”³³

What Henningsen and Neale fail to report is that the federal law allows states to develop their own formulas for determining how 95% participation is defined. The Every Student Succeeds Act 1112(e)(2)(A) mandates that districts receiving funds from the act provide testing transparency information and inform parents of the process to opt out of testing when appropriate. It states:

³¹ <http://thelawdictionary.org/coercion/>

³² <http://thelawdictionary.org/moral-coercion/>

³³ <https://dese.mo.gov/sites/default/files/am/documents/QS-17-007-Administration-of-Summer-End-of-Course-Assessment.pdf>

“(A) IN GENERAL.—At the beginning of each school year, a local educational agency that receives funds under this **part shall notify the parents of each student attending any school receiving funds under this part that the parents may request, and the local educational agency will provide the parents on request** (and in a timely manner), **information regarding any State or local educational agency policy regarding student participation in any assessments mandated** by section 1111(b)(2) and by the State or local educational agency, **which shall include a policy, procedure, or parental right to opt the child out of such assessment, where applicable**.”³⁴

A letter from members of Congress to former-Secretary of Education John King dated April 4, 2016 clearly articulated Congress’s intent to respect the right of parents to opt their students out of statewide assessments.³⁵ However, as described above, DESE has devised ways of circumventing the legalities proscribing coerced participation in statewide assessments through encouraging punitive local school district grading policies and data collection.

DESE used a subtler form of coercion by not reporting to the public the true effects of “technical issues” on scores of the general student population that participated in the EOC assessments -- especially the effects on the 176 students with unscorable PE responses. A review of DESE’s End-of-Course webpage on September 20, 2017 indicated no such information was posted.³⁶ An internet search of relevant terms indicating 176 students lack valid scores did not produce any hits. The absence of public reporting of known compromises in assessment results indicates that parents of affected students were not made aware of how DESE managed the unscorable responses, and that no opportunity to retake the assessment was offered as remedy for the detrimental effects of the “technical” issues that caused the problem. It is plausible to assume that students might have chosen to retake the Algebra I assessment if they had known, given that at least one school district, Rockwood, has posted retake guidelines for Algebra.³⁷

Legal implications of using coercion to achieve unjustified Department goals are found in the State and U.S. Constitutions. Missouri Constitution Article IX Section 1(a) stipulates that, “. . . the general assembly shall establish and maintain free public schools for the gratuitous instruction of all persons . . .”³⁸ Merriam-Webster defines *gratuitous* as meaning “given without recompense; not involving a return benefit.”³⁹ Certainly, inserting standardized assessment raw scores in student course grades as final exam scores or penalizing school districts for honoring parent opt out of statewide assessments is a coercion technique to attain a return benefit from students in the form of federal grants awarded to DESE.

³⁴ http://edworkforce.house.gov/uploadedfiles/every_student_succeeds_act_-_conference_report.pdf

³⁵ http://www.gilbertwatch.com/tasks/sites/gilbertwatch/assets/Image/SB1455_Rebuttal_AnnWhalen_Congressmen_1.JPG

³⁶ <https://dese.mo.gov/college-career-readiness/assessment/end-course>

³⁷ <http://www.rockwood.k12.mo.us/aplus/Documents/Algebra%201%20EOC%20Retake%20Guidelines.pdf>

³⁸ <http://www.moga.mo.gov/MoStatutes/ConstHTML/A09001a1.html>

³⁹ <https://www.merriam-webster.com/dictionary/gratuitous>

Also, two U.S. Supreme Court decisions handed down during the big-government Progressive Era of the 1920s, *Meyer v Nebraska* (1923) and *Pierce v Society of Sisters* (1925) read the Fourteenth Amendment's liberty clause as a prohibition to states not to interfere with the private decisions of educators and parents to shape the education of children. In *Pierce*, the U.S. Supreme Court admonished, "Children are not mere creatures of the state," thereby, identifying parents as the ultimate supervisors of their children's education.

It is apparent from a synthesis of reviewed sources that local school district administrator and testing coordinators were primarily concerned about the effects of the computer slowdown and compromised data on their students and teachers; whereas, state education administrators were primarily concerned about their standing with higher level bureaucracy. Specifically, DESE is concerned about its standing with the USED rather than Missourians. Apparently, DESE personnel are willing to abuse their power to realize their personal interpretation of federal law, even after Congress clarified its intent with the USED. Recommendations or data-collection policies designed to penalize students or districts that honor parental authority over children's education are unethical, especially when those assessments may be legally indefensible.

Parents and students have a right to protect their interests by opting out of testing or demanding that they be notified of compromised test scores. Their first level of redress should be at the district level, and remedies should be immediately available to correct, without fear of retribution, misrepresentation of student performance. To restore local control of education, the State Board of Education and DESE must comply with legal limits placed on their authority by case and statutory law and cease assuming state centralization over education.

2.4.4.2 Questions

- Were school district administrators informed of the 176 Algebra I PE responses that were rendered unscorable? If so, how did they respond in districts requiring that 20% of the Algebra I EOC final grade be calculated using the EOC score when only part of the score was produced by the student?
- Who is responsible for advising DESE about the incorporation of standardized test scores in the course grades of individual students?
- Why does DESE interfere with district grading policies, recommending that EOC raw scores be calculated in student final grades when the quality of the assessment program cannot be adequately substantiated?
- Why does DESE recommend that districts incorporate EOC raw scores in course grades, in effect, coercing participation in the EOCs, when Every Student Succeeds Act honors parents' right to opt out of statewide assessments and allows states to calculate 95% participation accounting for opt out policies?
- How are teachers' evaluations linked to the assessments described above?

- What are the legal implications of DESE’s withholding information from the 176 students whose Algebra I PE responses were rendered unscorable, and from their families?
- What evidence can DESE provide that federally funded programs, for which the accountability reports including student assessment scores are generated, has done anything to improve student learning in the state of Missouri?

2.4.5 Inappropriate Use of Standardized Assessment Raw Scores

2.4.5.1 Comments

DESE recommends that raw scores from EOCs become a component of student grades. This practice is professionally indefensible. Course grades and standardized assessments are designed for different purposes. They measure different indicators of achievement and are administered under different circumstances for different purposes.

According to Willingham, Pollack, & Lewis, “Grades represent the teacher’s summative judgment of performance based on evidence collected in class. An external test, such as a standardized statewide assessment, represents a performance sample of knowledge and skills devised by external subject matter specialists.”⁴⁰ In addition, the task for those developing standardized tests is to create an assessment instrument that, *with a handful of items*, yields valid interpretations of a student's status regarding a substantial chunk of content. That task is difficult and the sample of items is not a comprehensive measure of course content. In other words, EOCs are not sensitive to the breath of what students really know and are able to do.

Though scores from standardized tests reflect student performance under roughly the same conditions, different factors uniquely affect a student’s standardized test score. Factors such as standardized test anxiety, vendor administration problems, hand scoring by vendor employees with little training and no background in the content area all contribute to the unreliability of raw scores. Scaled scores were developed to interpret standardized assessment results precisely because raw scores are unreliable year to year. The most important difference between course activity grades and standardized assessments, however, is the difference of what they measure.

Raw assessment scores should not be included in student course grades simply because they do not measure the same kinds of student performance. That said, if DESE is instructing vendors to generate derived scores for accountability purposes and then populating individual student records with them, and instructing school districts to use raw/derived scores for course exam

⁴⁰Willingham, W., Pollack, J.M., & Lewis, C. (2000). Grades and Test Scores: Accounting for Observed Differences <http://onlinelibrary.wiley.com/doi/10.1002/j.2333-8504.2000.tb01838.x/pdf> p. 132

grades, DESE is inserting unreliable, scores generated by psychometricians into the students' transcript and data file without notifying affected parties. Misrepresentation of students' course achievement by factoring in standardized test scores may negatively affect student qualification for graduation, selection for postsecondary program entrance, or qualification for financial aid. Misrepresentation of students' abilities has detrimental effects on the students, the students' family finances, and Missouri taxpayer. This is a particularly crucial point, because the actual data in *Deriving Scale Scores for Unscorable Algebra I PE Responses* do not support Questar's claim that the approach used to arrive at its conclusions was sound.

Furthermore, the report analyzes the distribution of the difference between actual and predicted scores for the entire population and soothingly argues that “. . .very few students had x, y pairs that differed more than 4 points.” The deception in that statement is, five points is the whole range of *Basic*, and that a six-point difference can move a student from Below Basic, through Basic, and into Proficient. That is certainly not a negligible difference to those “few” individual students for whom four points can mean a great deal. The estimates of PE results have a larger uncertainty than the report suggests.

With respect to the effect on taxpayers, the report asserts that PE responses can be reliably derived, that is, “created” from student scores on selected-response items. This implies that the PE responses contribute little to nothing to the overall EOC results. If that assertion is true, why should Missouri waste students' instructional time and large amounts of taxpayer dollars to generate and manually score the PE section of the Algebra assessment?

DESE's decision to withhold information about how the derived PE scores affect student records is alarming. At the very least, the 176 students whose responses were identified as unscorable should have been notified by DESE of the likelihood of a large error in their scores and, ideally, offered an opportunity to retake the test at DESE's expense. Also, if the State Board of Education and DESE cannot produce evidence that the cost of statewide assessments actually accrues benefits to student learning as documented by data gathered from years of implementing federally funded programs in the state, then the Board and DESE must desist in making such expenditures and design a district evaluation plan that does not include submission of individual student data to the state or the U. S. Department of Education (USED) to qualify for federal grants that support ineffective programs.

2.4.5.2 Questions

- Who is responsible for developing DESE's recommendation about the incorporation of standardized test scores in the course grades of individual students?
- What data does DESE have to demonstrate a positive effect of statewide assessments on individual student learning to justify expenditure of state funds for the assessments?

- If statewide assessments result in unreliable data, why is DESE promulgating recommendations that affect course grades?
- Why is the statewide longitudinal data system designed to capture and warehouse individual standardized assessment data when the quality of the assessments compromises the quality of the data?
- Assuming the derived data are incorporated into individual student reports and warehoused in the statewide longitudinal data system, did DESE violate the students' right to represent themselves in their permanent school files?
- Did DESE misappropriate expenditure of public funds when it instructed Questar to create derived scores and populate individual student records with those scores?

3. EVENT II: DESE's Withholding of Algebra I and English II EOC assessment scores from the State Board of Education, school personnel, and the public, in Summer 2017

3.1 Current Status

The Algebra I and English II EOC results that were not released in summer of 2017 were generated from assessments aligned to the CCSS for English language arts and mathematics and showed a substantial decline in the percentage of student scores classified as Proficient+Advanced. The introduction of CC-aligned assessments in Missouri's Assessment Program began when Governor Nixon signed a Memorandum of Understanding (MOU) with the National Governors Association Center for Best Practices. The memorandum specified CCSSO and the NGA Center would constitute a group that will serve to validate end-of-course expectations and certify the state adoption of the common core standards in English language arts and mathematics. The memorandum described a process of academic standards development inconsistent with the process described in Missouri's SB 380.

Assessment items aligned to the NGA/CCSSO's CCSS were developed by SBAC and provided to Missouri as per a 2013 contract with CTB/McGraw-Hill -- SBAC's primary contractor for item development. Despite language in legislation prohibiting expenditure of appropriated funds on the implementation or support of CCSS, Missouri's Assessment Plan (MAP) has incorporated CC-aligned EOC assessments since Fall 2014. The 2017 decline in Missouri's English II and Algebra I EOC scores are explained in a Questar report of a recalibration study requested by the TAC. However, all states that administered SBAC or SBAC-like assessments in the 2016-2017 reported static or declining English scores despite at least three years of student and teacher familiarity with SBAC assessments. A decline in Algebra scores is common throughout the country. DESE's position that the TAC advised DESE to withhold EOC scores is not consistent

with a statement made by Dr. Neale during an August 30 webinar. The decision to withhold evidence of declining assessment scores from the public rather than explain how they were generated should be investigated.

3.2 Research Method

Research conducted to gather publicly available information as evidence included a review of excerpts from written and video content found in online interviews and news articles about the incident; information posted on the DESE and Office of Administration websites and Missouri Accountability Portal; statements of DESE personnel observed in recorded content of an August 30, 2017 webinar conducted by DESE personnel for district assessment coordinators; and State Board of Education meeting agendas.

A timeline of events and documentation about the development and administration of CC-aligned EOCs begins with the initiation of CCSSI in Missouri in 2009 and culminates with the withholding of assessment results generated from two CC-aligned EOCs in 2017. Because of the substantial increase in the length and amount of evidence gathered to address this issue, the content of Section 3 is organized differently from Section 2, so that comments and questions are inserted after the evidence associated with each year.

3.3 Analysis of Evidence

3.3.1. 2009 -- Governor Nixon Initiated Use of CC-Aligned Assessments of English Language Arts and Mathematics in Missouri Bypassing Missouri Statute

3.3.1.1 Evidence

Evidence indicates that Missouri's chief executive understood that the USED would federal funding to governors in exchange for four assurances. According to a speech Secretary Arne Duncan gave at UNESCO (Nov. 4, 2010), "The four assurances got their name from the requirement that each governor in the 50 states had to provide an "assurance" they would pursue reforms in these four areas—in exchange for their share of funds from a Recovery Act program . . ."⁴¹ The following describes Governor Nixon's actions to bypass Missouri statute describing the process for developing and updating academic standards in order to provide the assurances that Missouri would adopt an unknown common core of state standards in English language arts and mathematics and assessments aligned to them:

⁴¹ <https://www.ed.gov/news/speeches/vision-education-reform-united-states-secretary-arne-duncans-remarks-united-nations-educational-scientific-and-cultural-organization-unesco-paris-france>

- **February 22, 2009**, Governor Jay Nixon praised Missouri's education system on C-SPAN, when he said, ". . . we have an outstanding public education system that provides opportunities for kids and adults going to school. There's primarily a state responsibility – no doubt about it." (approximately 8:40-minute mark)⁴²
- **June 26, 2009**, Governor Jay Nixon unilaterally signed an MOU with the National Governors Association Center for Best Practices, quasi-governmental organizations acting as proxies for the USED.⁴³ The MOU stated,

Purpose. This document commits states to a state-led process that will . . . lead to development and adoption of a common core of state standards (common core) in English language arts and mathematics for grades K-12. . . . The intent is that these standards will be aligned to state assessment and classroom practice. The second phase of this initiative will be the development of common assessments aligned to the core standards developed through this process.

National Validation Committee. CCSSO and the NGA Center will create an expert validation group that will serve a[sic] several purposes, including validating end-of-course expectations, . . . and certifying state adoption of the common core standards.

Federal Role. . . . the federal government can provide key financial support for this effort in developing a common core of state standards and in moving toward common assessments, . . .

- **June 26, 2009**, the governor's office issued a press release stating that, "Missouri's Commissioner of Education, Dr. Kent King, passed away in January. Since that time, there has been an interim Commissioner and an ongoing search for a new Commissioner."⁴⁴
- **July 2, 2009**, Chris Nicastro accepted her appointment as Commissioner of Education and then co-signed the MOU signed earlier by Governor Nixon. She officially began her duties on August 1, 2009.

According to an April 7, 2010 press release, Governor Nixon received \$1,735,216,117 in State Fiscal Stabilization Funds from the USED.⁴⁵

⁴² <https://www.c-span.org/video/?284230-5/governors-meeting-washington>

⁴³ http://media.columbiaindianian.com/multimedia/2009/06/30/media/Common_Standards_MOA_FINAL_signed.pdf

⁴⁴ http://governor.mo.gov/newsroom/2009/K_12_Common_Core_Standards

⁴⁵ <http://www.ed.gov/news/press-releases/missouri-receive-more-248-million-additional-recovery-funds>

3.3.1.2 Comments

Governor Nixon's acclamation of Missouri's outstanding public education system and that education was a State's responsibility on national television appeared to be grandstanding. Within months of his inauguration, the governor, in his capacity as a state executive, assumed the role of "the State" and signed an MOU to radically alter that system. His signing of the MOU bypassed the process Missouri had adopted for development of academic standards in SB 380 (1993). As "the State," Nixon understood he was committing Missouri to adopt common standards in English language arts and mathematics and common assessments aligned to those standards. The result was Missouri's participation in a nation-wide assessment program or de facto national assessment funded by the federal government. He did so without opportunity to examine the standards or assessments he committed Missouri to using. That is, he did not exercise due diligence. In exchange for his signature, Nixon received a grant administered by the USED that was not appropriated by the state legislature. Nixon's actions ignored Missouri statute and the Missouri Constitution Article IX Section 1 (a) authorizing the general assemblies to maintain free public schools for the gratuitous instruction of its citizens.

3.3.1.3 Questions

- By what authority did Governor Nixon identify himself as "the State" and participate in the agenda of a Washington DC-based, non-governmental organization and financially rewarded by the federal government?
- How can a state government executive legitimately agree to have EOC expectations aligned to state assessment and classroom practice validated by national expert validation groups when Missouri's Constitution identifies the General Assembly as the authority to maintain free public schools for the gratuitous instruction of Missourians?

3.3.2 2010 -- Governor Nixon, Commissioner Nicastro and the State Board of Education Act in Concert to Bypass Processes for the Oversight of Education in Missouri in Exchange for Benefits Offered by the USED

3.3.2.1 Evidence

Nixon's MOU signed in June 2009 became a component of a January 2010, application for the USED *Race to the Top* grant program. Nixon, Commissioner Nicastro and the State Board of Education worked in concert to officially commit to the four assurances required to apply for the grant money (which, ultimately, Missouri was not awarded). The common assessments aligned to the common core of state standards were designed to drive the content of a State-produced model curriculum from imitation by local school districts, circumventing Missouri statutes that protect local control of education. Evidence supporting the above claim follows:

- **January 18, 2010**, Governor Nixon, Commissioner Chris Nicastro, and State Board of Education president David Liechti signed Missouri's *Race to the Top* Application Assurances for Phase I of the grant competition.⁴⁶ The signatories assured the USED that,

The State will develop a model curriculum framework, in collaboration with LEAs and higher education institutions, consisting of course descriptions, unit outlines, measurable objectives, benchmark assessments and scoring guides, suggested evidence-based instructional strategies, instructional timelines, and a state online instruction support environment aligned to the Common Core K-12 Standards for mathematics, reading, writing, listening, and speaking. . . .The framework will connect directly to the balanced assessment system consisting of formative, interim/benchmark, and summative assessments. The direct connection of the model curriculum to the balanced assessment system will provide incentive for LEAs to adopt and align their instruction it as well in order to leverage the power of assessment for and of learning.

- **April 14, 2010**, Missouri joined the Smarter Balanced Assessment Consortium as a governing member (that was two months prior to the adoption of the State Board of Education's adoption of the CCSS on June 15, 2010.⁴⁷ There was no way to assure assessment validity prior to the adoption of the standards to which the assessments would be aligned.
- **May 25, 2010**, Nixon, Commissioner Nicastro, and State Board of Education president David Liechti signed Missouri's *Race to the Top* Application Assurances for Phase II of the grant competition.⁴⁸ The signatories assured the USED that,

. . . the Department will collaborate extensively with teacher organizations and educational leader organizations to [sic] in the development of data linkages and of instructional resources connected to the Common Core Standards and aligned curriculum. (p. 31)

As the State adopts and transitions to the Common Core K-12 Standards and College- and Career-Readiness Standards, a high-quality assessment system is essential not only to measuring student achievement outcomes, but also to informing instructional decisions for individual students and curricular programs. A new system of assessments aligned to the Common Core Standards will incorporate both state-level formative, interim/benchmark, and summative assessments intended to impact instruction at the individual classroom level. (p.55)

- **June 2, 2010** National Governors Association and the Council of Chief State School Officers release the final version of their copyrighted CCSS.⁴⁹ (See April 14, above)

⁴⁶ <https://www2.ed.gov/programs/racetothetop/phase1-applications/missouri.pdf>

⁴⁷ <http://www.moagainstcommoncore.com/documents>

⁴⁸ <https://www2.ed.gov/programs/racetothetop/phase2-applications/missouri.pdf>

- **June 15, 2010** the Missouri State Board of Education adopted the CCSS in English language arts and mathematics as part of the CCSSI less than two weeks after the standards were released.
- **June 23, 2010**, DESE Assessment Coordinator, Michael Muenks (who became a member of the SBAC executive board) distributed a memo to school administrators and personnel announcing the Board's adoption of the CCSS and an outline of how current statewide assessments would be gradually replaced with CC aligned assessments:

The goal of that consortium is to have assessments in English Language Arts and Mathematics available by the 2012-2013 school year – at the earliest. Until such time, Missouri students will continue to take Grade-level and End-of-Course assessments aligned to Missouri's 2.0 Grade-level and Course-level expectations. District accountability will continue to be based upon student performance on those assessments. So, although districts should continue to update curriculum, as has been done in the past, the focus for now should remain on the standards that align with the assessments that will be used for district accountability – the 2.0 Missouri Grade-level and Course-level expectations.

- **September 28, 2010** the USED awarded *Race to the Top* grants to the Partnership for the Assessment of Readiness for College and Careers (PARCC) and SBAC.⁵⁰

3.3.2.2 Comment

Though Missouri was not awarded funds through USED's *Race to the Top* grant program, as per the 2009 assurances of the governor, the State Board of Education adopted the CCSS and joined the SBAC consortium as a governing member. Note that the standards were adopted *after* Missouri joined the SBAC, so there was no opportunity to review the quality of the assessments *before* obligating Missouri to administer them and pay consortium membership fees at the expiration of the grant.

The public assumes that government officials exercise due diligence and reviews products costing Missourians millions of dollars *before* making a purchase on their behalf, but that was not the case with assessments aligned to the CCSS. The assessment consortium was not funded until months after Missouri joined SBAC as a governing member. Initially, states were not assessed membership fees because SBAC and its assessment development activities were funded by a five-year USED grant. This arrangement allowed state departments of education to be involved in consortium activities and implement the CCSSI without requesting funds from their respective legislatures for five years.

⁴⁹ http://www.ccsso.org/News_and_Events/Press_Releases/NATIONAL_GOVERNORS_ASSOCIATION_AND_STATE_EDUCATION_CHIEFS_LAUNCH_COMMON_STATE_ACADEMIC_STANDARDS_.html

⁵⁰ <https://www2.ed.gov/programs/racetothetop-assessment/awards.html>

Consortium—developed assessment items were accessible to states without charge because their development was funded by a federal grant. When the federal grant was due to expire in 2015, the assumption was that the CC-aligned assessment items would have already been constructed, and states would have incorporated them into their assessment forms. Then states would contract vendors who were subcontractors of the consortium to administer the assessments. In 2013, Missouri contracted with CTB/McGraw-Hill (the main subcontractor for SBAC item-development) and Data Recognition Corporation (DRC), which acquired CTB from McGraw-Hill in 2015 at the expiration of SBAC’s federal funding. The CC-aligned assessments in English language arts and mathematics were not available by the target year 2012-2013, but in 2014-2015.

3.3.2.3 Questions

- Why did Governor Nixon and DESE personnel work to circumvent SB 380 and apply for USED grant money designed to centralize academic curricula and data gathering at the state level?
- Why did the Governor, Commissioner, and State Board of Education agree to administration of English language arts and mathematics assessments without any evidence of their quality?

3.3.3 2011 -- Expert Reviewers Find SBAC Assessment Specifications Flawed

3.3.3.1 Evidence

Various expert reviewers published critiques of draft Smarter Balanced assessment specifications, that is, the foundational underpinnings of the assessment. Evidence that the SBAC assessment specifications were deeply flawed are related to the breadth and conceptualization of the CC standards. For example:

- **September 2, 2011**, Kathleen Porter-Magee wrote a critique of SBAC *Content Specifications for the Summative Assessment of the Common Core State Standards for English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects*. Porter-Magee commented, “The biggest problem with the SBAC content specifications is the consortium’s plans for assessing . . . student mastery of particular reading skills, rather than . . . comprehension of carefully selected texts.”⁵¹
- **September 19, 2011**, W. Stephen Wilson, professor of mathematics and education at John Hopkins University received his Ph.D. in mathematics from M.I.T. and published over sixty mathematics research papers in the field of algebraic topology. Wilson reviewed SBAC’s draft of *Content Specification with Content Mapping for the*

⁵¹ <https://edexcellence.net/commentary/education-gadfly-daily/common-core-watch/2011/get-smarter-how-well-are-sbacs-assessment-plans-aligned-to-the-common-core.html>

Summative Assessment of the Common Core State Standards for Mathematics.^{52, 53}

Wilson made the following points:

- The conceptualization of mathematical understanding on which SBAC will base its assessments is deeply flawed. The consortium focuses on the Mathematical Practices of the Common Core State Standards for Mathematics (CCSS-M) at the expense of content, and the outline plans to assess communication skills that have nothing to do with mathematical understanding.
- Communication skills are NOT critical to mathematical understanding and insisting on them in order to judge mathematical understanding is misguided at best. These top-level claims already demonstrate a failure to properly interpret mathematical understanding.
- This Draft does not give good guidance for curriculum developers because content is an afterthought. It appears that the assessments will focus on communication skills and Mathematical Practices over content knowledge. As such, there is little to be optimistic about.

3.3.3.2 Comments

Though only SBAC specification drafts were released in 2011, reviewer comments indicated substantive problems with the development of SBAC assessments at a foundational level. The English language arts standards cover such a broad range of topics (history, social studies, science, and technical subjects) making it impossible to assess any of the topics well. Perhaps that is why the English language arts specifications focused on reading skills rather than comprehension.

Rasmussen (2015) confirmed Wilson’s critique of the conceptualization of mathematical understanding when he said in a later critique of the SBAC mathematics items that they were “fatally flawed and should not be used.”

3.3.3.3 Questions

- Why were the SBAC assessments contracted for development by premier testing companies so seriously flawed? For example, why did assessment specification developers insist on using verbal explanations as a measure of mathematical knowledge and skills?
- Because the assessments were under the control of the SBAC consortium and not Missouri, what, if anything, could/did DESE do to correct of the specification flaws before contracting with CTB/McGraw-Hill to access SBAC assessment items for Missouri’s EOC assessments?

⁵² <https://www.smarterbalanced.org/wp-content/uploads/2015/08/Mathematics-Content-Specifications.pdf>

⁵³ <http://www.math.jhu.edu/~wsu/ED/flypaper.pdf>

3.3.4 2012 – Missouri Partners with SBAC’s Primary Contractor, CTB/McGraw-Hill, to Build CC-Aligned EOCs in English Language Arts and Mathematics

3.3.4.1 Evidence

SBAC contracted with testing companies (several of whom were represented in the development of the CCSS) using funds awarded by USED *Race to the Top* dollars. Consortium member-states then collaborated with contractors to develop SBAC assessment items. An outcome of this public-private partnership would be states awarding ongoing contracts to consortium contractors and subcontractors to build CC-aligned assessments with the SBAC test items. The CC-aligned assessments were incomparable to state-specific tests, creating a new market for contractors to service with administrating, scoring, and reporting results of the new assessments as shown in the following evidence:

- **April 16, 2012**, SBAC awarded CTB/McGraw-Hill a \$72 million contract to be a lead contractor in the development of SBAC test items. A CTB/McGraw-Hill press release stated,

As part of the contract, CTB and its partners will develop nearly 10,000 test items for the Smarter Balanced assessment system, which will be implemented in the 2014-2015 school year. . . . CTB will lead a collaborative team involving five partners, including:

- American Institutes for Research, which will be involved in the development of technology-enabled test items and new open-source scoring engines. .
- Data Recognition Corporation, which will also assist in item development and scoring.
- The Council for Aid to Education, . . .
- HumRRO,
- The College Board [developer of the SAT] . . .

Once the test items have been developed, states will select partners to build assessments around the items and deliver them to students. . .^{54,55}

- **June 27, 2012**, DESE submitted Missouri’s ESEA Flexibility request that explained DESE’s rationale for Missouri’s adoption of the CCSSI,

Missouri’s state standards have been acclaimed nationally as among the top three in the country; a perspective confirmed by close alignment between

⁵⁴ CTB/McGraw-Hill, Press release, “Smarter Balanced Assessment Consortium Selects CTB/McGraw-Hill to Develop Next Generation of Assessments to Help Schools Meet New Common Core State Standards,” April 16, 2012. <http://www.ctb.com/ctb.com/control/aboutUsNewsShowAction?newsId=45443&p=aboutUs>

⁵⁵ <http://www.prnewswire.com/news-releases/smarter-balanced-assessment-consortium-selects-ctbmcgraw-hill-to-develop-next-generation-of-assessments-to-help-schools-meet-new-common-core-state-standards-147593455.html>

our statewide assessment scores and National Assessment of Educational Progress (NAEP) scores, indicating high cut scores for proficiency. . . . it was confusing that many of Missouri’s schools were already labeled as failing when schools of similar quality in other states were not due to differences in standards and the rigor of the assessments used from one state to the next. (p.18)

- **November 28, 2012**, SBAC released its *Preliminary Test Blueprints* report.⁵⁶ SBAC Governing states, including Missouri, adopted the summative assessments in English language arts and mathematics for high school. According to the SBAC report,

The Smarter Balanced summative assessments will provide measures of student progress on and attainment of the CCSS in grades 3–8 and high school. The CCSS have several unique features that have affected the contents of the Smarter Balanced blueprints. The “Balanced” in Smarter Balanced refers both to our model of an interconnected system of summative, interim, and formative components, as well as a balance between technologically advanced computer adaptive testing (CAT) and extended, thematically related performance tasks. This latter feature of the balance between CAT and performance tasks is captured in our blueprints. Finally, building an assessment for a 25-state consortium creates an additional set of challenges not found in state-specific assessments.

Common Core State Standards: As states implement the CCSS, there is increasing realization that they are qualitatively different from most of the state standards that have preceded them.

3.3.4.2 Comment

DESE’s rationale for adoption of the CCSSI including common assessments as explained in Missouri’s 2012 ESEA (No Child Left Behind) Waiver application was not consistent with language in DESE’s contract with CTB/McGraw-Hill. In the waiver, DESE stated that because Missouri had high performance standards (as per SB 1080, they were aligned to the National Assessment of Education Progress (NAEP)) and other states’ performance standards were not as high, Missouri’s lower number of school districts that met the high standards created a perception that Missouri’s education system was not competitive with other states. Yet, the contract Missouri offered to CTB/McGraw-Hill required the vendor to define a link between the Missouri assessments, SBAC, and the NAEP. Missouri was awarded the ESEA waiver based on its application that confirmed Missouri’s commitment to the four assurances discussed above. The inconsistency between DESE’s rationale for adopting the common assessments and performance standards and conditions in the CTB/McGraw-Hill contract suggests the rationale as expressed in the waiver application was a cover for the Governor’s MOU and the USED grant

⁵⁶<http://www.eoc.sc.gov/Meeting%20Minutes/Meeting%20Packets/2013/State%20Assessments%20Informational%20Meeting/Smarter%20Balance.pdf>

he received in exchange for his signature. The waiver was later superseded by Congress's passage of Every Student Succeeds Act in 2015.

Consistent with the CTB/McGraw-Hill press release, after SBAC contractors developed assessment items, Missouri selected CTB/McGraw-Hill as its partner to build EOCs in English and mathematics for computer adaptive testing (CAT). The qualitative difference of the CCSS and the CC-aligned assessments associated with them from Missouri's Show-Me Standards will later have significance in the 2014-2015 administration of statewide assessments.

3.3.4.3 Questions

- How did DESE justify commitment to an assessment consortium with unknown costs and a pre-determined agenda that was only *temporarily funded* by the federal government with no prior approval by the general assembly for ongoing membership fees?
- Who approved membership in SBAC without prior review of the test items and tests and review of the technical manual?
- How were the qualitative differences of the CCSS, SBAC-developed assessment items and computer adaptive testing demonstrated as superior to Missouri's Show-Me Standards, assessments aligned to them, and paper-and-pencil testing *before* the adoption of the CCSSI?

3.3.5 2013 -- DESE Awards CTB/McGraw-Hill Contract to Develop, Administer, Score and Report English Language Arts and Mathematics EOCs Ignoring HB 002

3.3.5.1 Evidence

DESE awarded a contract to CTB/McGraw-Hill for CC—aligned EOCs in English language arts and mathematics after the General Assembly passed and Governor Nixon signed HB 002 prohibiting expenditure of appropriated funds on the implementation of CC.

- **March 22, 2013**, Missouri's Office of Administration issued RFP B3Z1307 requesting a competitive proposal for (among other CC-aligned assessments) "administration, scoring, and reporting of contractor-provided End-of-Course (EOC) Assessments aligned to Common Core Standards in English I, English II, Algebra I, Algebra II, and Geometry; . . .".
- **April 29, 2013**, Amendment 2 of the RFP, items 2.1.2 and 2.1.4 stated respectively,

The state agency may elect to administer fewer assessments, or to discontinue some assessments if necessary due to budget constraints. In the event of the discontinuation of assessments, the Division of Purchasing and Materials Management shall issue a contract amendment which identifies the discontinued assessment(s). The contract payments shall be reduced in accordance with the prices applicable to such discontinued assessment(s).

as stated on the Pricing Page and an applicable reduction in the Program Coordination pricing.

The contractor(s) shall ensure that all components of Missouri's assessment program are in compliance with applicable state statute (Missouri's S.B. 380 and Missouri S.B. 1080), Missouri's NCLB Waiver . . . and any additional federal reporting requirements.⁵⁷

- **June 28, 2013**, Governor Nixon signed the appropriations legislation, HB 002. Section 2.050 lines 8-9 of that legislation stated, "To the Department of Elementary and Secondary Education . . . no funds shall be used to implement the Common Core Standards."
- **July 31, 2013**, Missouri Office of Administration contacted CTB/McGraw-Hill with a request to negotiate correspondence. According to a September 16, 2013 letter from CTB/McGraw-Hill included in the September 19, 2013 Notice of Award, the Office of Administration made similar requests on August 23, 2013 and September 10, 2013.
- **August 7, 2013**, CTB/McGraw-Hill's 2013 submitted its best and final offer in response to RFP B3Z13074. The offer stated,

CTB has a wealth of experience in working with DESE and implementing target cut scores based on benchmarks. For example, DESE may indicate that it wishes to implement cut scores at grades 4 and 8 that classify approximately the same percentage of students as Proficient as does NAEP. (p. 175)

CTB will work closely with DESE to define a link between the Missouri assessments, SBAC, and NAEP that is reasonable and meaningful. (p. 176)⁵⁸

- **September 19, 2013**, the Division of Purchasing and Materials Management entered into Contract C313074001 with CTB McGraw-Hill, LLC.⁵⁹ Provisions of the contract included:
 - Transition of existing End-of-Course and End-of-High-School Assessment test forms and scoring materials from the state agency to CTB (p. 4);
 - Administration, scoring, and reporting of EOC assessments from another state's existing assessment program at no cost to the state of Missouri (p. 7). (NOTE Missouri did *not* develop the EOC assessments or the EOCs' cut scores, but contracted with the vendor to procure them);

⁵⁷<https://awardedsearch.oea.mo.gov/PublicAccess/!CustomSearchPages/PublicAccessProvider.ashx?action=ViewDocument&overrideFormat=PDF> (p. 15 of document is p. 3 of RFP)

⁵⁸<https://awardedsearch.oea.mo.gov/PublicAccess/!CustomSearchPages/PublicAccessProvider.ashx?action=ViewDocument&overrideFormat=PDF>

⁵⁹<https://awardedsearch.oea.mo.gov/PublicAccess/!CustomSearchPages/PublicAccessProvider.ashx?action=ViewDocument&overrideFormat=PDF>

- Scoring and associated development/set-up of scoring programs for the End-of-Course and End-of-High-School assessments for the original contract period (p. 5) which extended from September 20, 2013 through December 1, 2015;
- Cut-point Validation for EOC assessments and Achievement Level Setting by content area, (p. 7)
- EOC Assessment Pre-Testing and the training associated with Pre-Testing EOC Assessments for school districts and the state agency (p. 8); and
- Technical reports for the EOC assessments. (p. 8).

CTB made the following assumptions in order to provide cooperative pricing and requested discounts for the End-of-Course assessments:

- All states will have the same summative assessment testing windows as Missouri.
- Ninety percent of the test items will align with the cooperating states standards (all states get the same test). (p. 11)

3.3.5.2 Comment

Even though the RFP for CC-aligned EOCs was first publicized in March of 2013, Governor Nixon signed HB 002 in June of 2013 prohibiting the expenditure of appropriations on the implementation of the CCSS. Though DESE's *implementation* of the CCSS is not direct at the state level, Commissioner Nicastro admitted that CC-aligned assessments would drive the adoption of common core aligned curricula, thus, indirectly driving the implementation of CCSS in Missouri. The RFP for statewide assessments was not withdrawn or amended to require compliance with HB 002. CTB/McGraw-Hill's Best and Final Offer (BAFO) for CC-aligned EOCs in English language arts and mathematics was accepted in September. In effect, DESE was complying with portions of the Missouri statutes that fit the agenda of the CCSSI.

3.3.5.3 Question

- How did DESE justify awarding CTB/McGraw-Hill a contract for CC-aligned EOCs in September after passage of the 2013 appropriations bill prohibiting such expenditures?

3.3.6 2014 – DESE Contracts for Two Different Tests, Aligned to Different Sets of Standards, and with Different Cutpoints Administered in the Same School Year

3.3.6.1 Evidence

Because SBAC was funded with public dollars, assessments and assessment items were accessible to states free of charge under three conditions: (1) directly to member states (having full privileges), (2) to licensee states (no policy making-privileges), or (3) vendors that request it

for purposes of administering assessments consistent with states' needs.⁶⁰ Between Spring 2014 and Summer 2015, Missouri would access SBAC assessment items under all three options to circumvent restrictions imposed by the court and the state legislature.

- **January 14, 2014**, Margie Vandeven, Deputy Commissioner of Learning Services was lead presenter of the revised assessment plan presented to the State Board of Education that reduced the number of assessments, but included CC-aligned EOCs in English II and Algebra I.
- **January 17, 2014**, a DESE Question & Answer memo to parents included the following excerpt:

Q: Are only the English and mathematics EOC assessments (English II, Algebra I, and Algebra II) being updated to align to new content expectations (CCSS)?

A: Yes. The English and mathematics EOC assessments are being updated to align to the Common Core State Standards. DESE has not published a timeline for any additional updates to other content EOC assessments.⁶¹

- **March 4, 2014** an amendment was added to contract C313074001.⁶² The amendment read as follows,

This document constitutes a request for competitive, sealed proposals for . . . *operational* administration, scoring, and reporting of Missouri's existing EOC Assessments in Biology, ~~U.S.~~ and U.S. Government; and American History; (65) *administration, scoring, and reporting of contractor provided EOC Assessments aligned to Common Core State Standards in English and Geometry Missouri's existing American History EOC, and a Physical Science EOC Assessment (which Missouri will license from the University of Iowa) for individual Missouri school district . . . (7) determination of achievement level cutpoints and descriptors for English/Language Arts and Mathematics assessments*. . . EOC Assessments of science content aligned to Next Generation Science Standards (NGSS) at the request of the Missouri Department of Elementary and Secondary Education (the Department). All services shall be completed for the Assessment Section of the Office of College and Career Readiness of the Department as set forth herein. (p. 2)

⁶⁰http://blogs.edweek.org/edweek/curriculum/2014/06/can_anystate_use_parcc_or_smarter_balanced_test_items.html

⁶¹<http://moparent.com/Websites/moparent/images/AssessmentFAQ.pdf>

⁶²<https://awardedsearch.oea.mo.gov/PublicAccess/!CustomSearchPages/PublicAccessProvider.ashx?action=ViewDocument&overrideFormat=PDF>

The Department developed Map EOC Assessments in collaboration with Riverside Publishing Company, and the assessments are currently administered and scored through contracts with Questar Assessment, Inc. (QAI) . . . Missouri maintains ownership of all Missouri EOC items, complete test forms, and scoring materials for all content areas, as well as all items in Missouri's item bank housed with QAI. (p. 4)

Achievement level cut points for MAP EOC Assessments were determined using a modified Angoff procedure. Because they are course-based rather than content-based, Senate Bill 1080 (2004)⁶³ did not impact their cut scores. (p. 5)

In January 2014, Missouri's State Board of Education approved a new statewide assessment plan that includes . . . Common Core State Standards (CCSS) aligned End-of-Course (EOC) assessments in Algebra I, Algebra II, and English II; and Missouri's existing Biology EOC assessment aligned to Missouri's Course-Level Expectations (CLEs) (p. 7)

The contractor shall provide a technically sound, fixed form EOC assessments aligned to CCSS for English I, English II, Algebra I, Algebra II and Geometry . . . Beginning with the 2014-2015 academic year, the English II and Algebra I EOC Assessments shall be administered to all Missouri public school students completing the appropriate course content. . . . Such contractor-provided assessments may be contractor-owned shelf products and/or existing assessments from other entities that are licensed or leased for use in Missouri. Such assessments may include selected-response items and/or performance items (constructed response items and/or performance events/writing prompts); . . . (p. 20)

The contractor shall provide a report documenting the technical adequacy of the English II, Algebra I and Algebra II EOC assessments. . . . (p. 21)

Assessments shall be available for administration during Summer, Fall, and Spring administration windows to accommodate Missouri school districts' varying schedules. (p. 21)

⁶³ No later than June 30, 2006, the State Board of Education shall align the performance standards of the MAP so that such indicators meet, but do not exceed, the performance standards of the National Assessment of Educational Progress (NAEP) exam <http://www.house.missouri.gov/content.aspx?info=bills041/bills/SB1080.htm>

All assessments shall be administered in an online format beginning with the summer 2014 test administration window in accordance with the requirements herein. (p. 21)

The contractor shall score all assessments and report student results in accordance with the requirements specified herein. . . , the contractor shall provide cut points and achievement levels relative to CCSS for the required EOC Assessments (English II, Algebra I, and Algebra II) . . . If cut points and achievement level descriptors for the assessments have been previously developed, the contractor shall provide a cut point validation including a review by Missouri educators in accordance with the requirements herein. If cut points and achievement level descriptors have not been previously developed for English II, Algebra I, and Algebra II EOC Assessments, the contractor shall complete an achievement level setting with Missouri educators in accordance with the requirements herein. (p. 21)

If the contract is renewed, the contractor shall administer equivalent forms of the ~~English I~~, English II, Algebra I, and Algebra II and Geometry EOC Assessments annually during three testing windows of similar timing and duration, and provide scoring and reporting of student results in accordance with the requirements specified herein. The contractor must provide two operational forms of each assessment for operational administration and one form to be administered in the event of a breach of test security. (p. 21)

- **June 4, 2014**, DESE's Coordinator of Curriculum & Assessment, Michael Muenks, issued a memorandum to the Division of Purchasing and Materials Management indicating that CTB/McGraw-Hill was not receptive to the amendment even though the original contract alerted the vendor to the possibility of a reduced assessment plan:

. . . In September 2013, CTB/McGraw-Hill was awarded the contract for development, administration, scoring, and reporting of all Grade-Level Assessments and **EOC Assessments to be implemented in 2014-2015**. The first scheduled test administration under this contract is June 9th (Summer 2014 EOC administration). (pp. 1-2)

In January 2014, the Missouri State Board of Education approved a new assessment plan for implementation in 2014-2015 . . . In March, an amendment was issued to reflect these changes in the assessment program. After several months of discussion, CTB and the Department have reached an impasse regarding pricing. Despite the reduction in scope, CTB is unable to reduce pricing

accordingly to a level that will accommodate the constraints of the Department's budget for the Missouri Assessment Program.

The Department wishes to take the following actions to . . . continue changes approved by the State Board of Education [in January 2014] Renew Questar's current contract for EOC Assessments, and amend as necessary to reflect State Board of Education directives. . . . Renew Questar's current contract for scoring of EOC performance events and writing prompts . . . (p. 2)

- **June 4, 2014**, the same day as DESE's Coordinator of Curriculum & Assessment requested a termination of the September 2013 contract with CTB/McGraw-Hill and an amendment to the Questar contract, the Office of Administration e-mailed Questar with following explanation for the change of contract:

. . . , contract C313074001 for the Missouri Assessment Program with CTB McGraw-Hill LLC was terminated as indicated in the attached e-mail dated 6/4/14 from Michael Muenks with the Department of Elementary and Secondary Education. Due to the termination, the Department of Elementary and Secondary Education has requested that contract C310315001 be renewed for the EOC assessments for the 2014-2015 academic year. (p. 16)

- **June 19, 2014**, the Office of Administration amended contract C310315001 with Questar Assessment Inc. with the following revisions to the Summer 2014 administration of Missouri's End-of-Course (EOC) Assessments only:⁶⁴

Rather than following the established test rotation schedule, the contractor shall administer the same form of each assessment that was administered in Spring 2014 during the Summer 2014 testing window. (p. 2)

The contractor shall provide online administration of the assessments using the same version of the iTester platform that was used for the Spring 2014 test administration. (p. 2)

Program Management, Research Services, and Development of Scoring System Technology for MAP EOC Assessments – The contractor shall provide a firm, fixed total price for fixed costs associated with Program Management, Research Services, and Development of Scoring System Technology associated

⁶⁴<https://awardedsearch.oea.mo.gov/PublicAccess/!CustomSearchPages/PublicAccessProvider.ashx?action=ViewDocument&overrideFormat=PDF>

with MAP EOC Assessments (Algebra I, Algebra II, Geometry, English I, English II, Biology, American History, and U.S. Government). (p. 4)

Online Assessment Administration – The contractor shall provide a firm, fixed price per student assessment for all activities associated with the online assessment administration of the EOC assessments for Algebra I, English II, and Biology. . . (p. 7)

Addition of Performance Events and Writing Prompts – For each assessment listed below, the contractor shall provide a firm, fixed total price for selecting and adding [existing] performance events to existing Algebra I and Biology EOC Assessments, and writing prompts to the existing English II EOC Assessment in accordance with the requirements herein. Pricing shall include all activities related to adding performance events and writing prompts to the assessments, including test selection and psychometric costs for scaling and equating and developing new raw score to scale score conversion tables.

- **June 19, 2014**, Questar’s Kathryn Stanley sent an e-mail to Stacie Dawson at Missouri’s Office of Administration stating, “Questar . . . looks forward to working with DESE to successfully implement the 2014-2015 End of Course Assessment program as outlined for renewal period 3 of the amendment.”⁶⁵
- **June 24, 2014**, Governor Nixon approved the appropriations legislation HB 2002 (vetoing specified sections). Section 2.060 lines 8-9 of the bill stated, “**. . . no funds shall be used to implement or support the Common Core Standards.**”⁶⁶ [italics added]
- **July 14, 2014**, Governor Nixon approved HB 1490 that constituted workgroups to develop Missouri’s academic standards in public domain and stipulated the process and characteristics of the statewide assessment program. Section 160.518.1 states,

. . . the state board of education shall develop, modify, and revise, as necessary, a statewide assessment system that provides maximum flexibility **for local school districts to determine the degree to which students in the public schools of the state are proficient in the knowledge, skills, and competencies adopted by such board** pursuant to [subsection 1 of] section 160.514.

⁶⁵Notice of Contract Amendment C3130315001 (June 19, 2014)
<https://awardedsearch.oa.mo.gov/PublicAccess/!CustomSearchPages/PublicAccessProvider.ashx?action=ViewDocument&overrideFormat=PDF> (p. 14)

⁶⁶<http://www.house.missouri.gov/Bill.aspx?bill=HB2002&year=2014&code=R>

- **August 5, 2014**, a Notice of Contract Termination with CTB/McGraw Hill (C313074001) stated that the contract was officially terminated July 5, 2014.⁶⁷
- **August 29, 2014**, Missouri's Office of Administration finalized a Notice of Contract Amendment with Questar, that is C310315001 pertinent to EOCs, with the following changes to the June amendment:

The contractor shall continue to administer, score, and report on ~~English II, Algebra I and Algebra II, Biology, and U.S. Government EOC Assessments for statewide accountability purposes according to the requirement here~~ *End-of-Course Assessments according to the requirements herein*. For *English I, English II, Algebra I, Geometry, and Algebra II*, the contractor shall **administer score, and report on updated Common Core-aligned assessments**. *Additionally, the contractor shall administer the new Physical Science assessment, which will be provided by the state agency through a contract with the University of Iowa. The contractor shall invoice local school districts for EOC Assessments not being administered for accountability purposes.* (p. 2)

The contractor shall provide a cutpoint validation for updated English I, English II, Algebra I, Geometry, and Algebra II, and Physical Science assessments. (p. 2)

In 2013-2014, the Department of Elementary and Secondary Education continued the process of aligning curriculum and assessments to the CCSS by updating English I, English II, Algebra I, Algebra II, and Geometry EOC Assessments. New Blueprints were developed for these assessments, and items were selected to align the assessments with the CCSS. This work was completed through a contract with CTB/McGraw Hill. [The CCSS assessment items provided by CTB/McGraw-Hill were developed under CTB/McGraw-Hill's contract with the Smarter Balanced Assessment Consortium described above.] *Concurrent with this work, the Missouri State Board of Education approved a new plan for statewide assessment in January 2014. One of the goals of this plan was to reduce testing time for Missouri students. Therefore, the new assessment plan reduced the number of required EOC Assessments for high school students. Beginning in 2014-2015, Missouri school districts will be required to administer EOC Assessments in Algebra I, English II, Biology, and U.S. Government to all students prior to high school graduation. . . .* (p. 9)

⁶⁷ Notice of Contract Termination with CTB/McGraw-Hill (August 5, 2014)
<https://awardedsearch.oea.mo.gov/PublicAccess/!CustomSearchPages/PublicAccessProvider.ashx?action=ViewDocument&overrideFormat=PDF>

... the contractor shall take into consideration **the state's adoption of the Common Core K-12 Standards for College-and-Career-Readiness and the state agency's participation in the SMARTER Balanced Assessment Consortium.**

(p. 10)

The contractor shall perform all services to the sole satisfaction of the state agency. (p. 11)

By August 1, 2014, the contractor shall work collaboratively with the state agency to complete the transition of the following:

- a. Updated test blueprints for Algebra I, Algebra II, Geometry, English I, and English II Assessments (PDF files);
- b. Technical information related to the development of updated Algebra I, Algebra II, Geometry, English I, and English II Assessment (PDF files);
- c. Preliminary ancillary materials for administration of updated assessments (PDF files);
- d. Item cards for all items on updated Algebra I, Algebra II, Geometry, English I, and English II Assessments, including item metadata and history of item changes (PDF files);
- e. Form planners for updated Algebra I, Algebra II, Geometry, English I, and English II Assessments (Excel file);
- f. Any revisions to items in the Missouri EOC item bank (XML file); ... (p. 12)

Using the test form planner provided by the state agency, the contractor shall ~~operationally~~ administer the updated English I, English II, Algebra I, Geometry, and Algebra II assessments provided by the state agency in the Fall 2014 assessment window. The state agency will transfer four complete test forms (two operational forms, a breach form, and a pretest form) for English II prior to the Fall 2014 assessment window. ... For Algebra I and Algebra II, the state agency will transfer one operational test form and one pretest form. Prior to Spring 2015 test administration window, the contractor shall work with the state agency to complete test selection and development of a form planner for two additional forms of Algebra I assessment and two additional forms of the Algebra II assessment. For those assessments for which two operational forms are available, Assessment forms shall be alternated in each administration window. (p. 15)

By ~~October 1~~ March 1, 20154 [sic], the contractor shall facilitate a cutpoint validation for ~~required~~ English I, English II, Algebra I, Geometry, Algebra II, and

*Physical Science EOC assessments that have been updated to align to Common Core Standards (Algebra I, Algebra II, and English II). **The state agency shall select, contact, and confirm 10 individuals for Algebra I, Geometry, and Algebra II, and 10 individuals for English I and English II, and 10 individuals for Physical Science (320 total participants).** The contractor shall facilitate a review of the established achievement level cut points and achievement level descriptors to ensure that they are consistent with Missouri's performance expectations. . . .*
(p. 30)

- **October 2014**, SBAC conducted an achievement level setting activity in October 2014 and developed “preliminary” performance levels or cutpoints. The threshold scale scores and expected percentages represent a preliminary attempt at standard setting with the possibility of revision after the Spring 2015 assessment administration.⁶⁸
- **November 16, 2014**, retired educational measurement specialist, Doug McRae, who served as a McGraw-Hill educational testing executive in charge of design and development of K-12 tests reviewed SBAC test items available to the public and projected that the SBAC assessments wouldn't be ready for use until Spring 2016.⁶⁹ McRae commented,

Smarter Balanced calls their 2015 test administration test an “operational” test. But, any operational test needs more than qualified test questions to yield valid scores. It must also have valid scoring rules to generate meaningful scores for students, for teachers, for parents and for valid aggregate scores for schools, districts and important subgroups of students. It is quite clear to me that the cut-score-setting exercises conducted by Smarter Balanced this month will not produce final or valid cut scores for timely use with Spring 2015 Smarter Balanced tests. Spring 2015 tests will instead be benchmark tests (to use test development parlance), tests that yield data that then can be used to generate valid cut scores. That exercise will have to wait for September 2015 at the earliest. The Smarter Balanced website recognizes this by labeling the cut scores recommended in October 2014 as “preliminary” cut scores, to be validated by Spring 2015 data.

. . . plans are faced with the prospect that those scores will have to be “recalled” and replaced with true or valid scores just months after incorrect

⁶⁸ <https://www.nwea.org/content/uploads/2015/01/SBAC-Preliminary-Cut-Scores-JAN15.pdf>

⁶⁹ <https://edsources.org/2014/smarter-balanced-tests-are-still-a-work-in-progress/69828>

scores are disseminated. This is not a pretty picture for any large-scale statewide assessment program. . . .

The bottom line: Smarter Balanced tests are still a work in progress. I think it will be Spring 2016 before Smarter Balanced tests will be able to generate valid, meaningful test scores in a timely fashion.

Within days of McRae published his observations, David Foster, a mathematician and executive director of the Silicon Valley Mathematics Initiative who wrote exemplar performance tasks for Smarter Balanced gave a negative review of the mathematics test items.⁷⁰ Foster stated:

“ . . . I never solve problems by merely sitting at the keyboard. . . . All Smarter Balanced and PARCC are going to look at is the final explanation that is written down . . . and if there’s a flaw in the logic, there’s no way to award kids for the work they really did and thought about. . . .

. . . I’ve played with the platform, and it makes me sick. And I’ve done it with problems I’ve written.

3.3.6.2 Comment

In Summer 2014, Missouri students completed English language arts and mathematics EOCs that were substantively different from the CC-aligned/SBAC-derived EOCs in the same subject areas and administered in Fall 2014/Spring 2015. Despite Governor Nixon’s signing of a 2014 appropriations bill that prohibited expenditure on the implementation *or support* of CCSS, DESE contracted with Questar to administer the CC-aligned EOCs in Fall 2014 and Spring 2015.

Experts in test construction who reviewed publicly available SBAC mathematics items determined they were not designed well enough to validly assess what a student knows and are able to do. Also, in Fall 2014, SBAC conducted a cutpoint conference to develop “preliminary” cutpoints for CC-aligned mathematics assessments that testing experts determined were considerably flawed. As will be explained in the next section, the State Board of Education adopted these same “preliminary” cutpoints for grade-level assessments as Missouri’s official cutpoints. The best available information indicates that SBAC “preliminary” cutpoints were developed for EOCs, as well. No evidence is available to indicate that DESE complied with HB 1490 giving local school districts the authority to determine when their students have met proficiency in the standards adopted by the State Board of Education.

⁷⁰ <http://www.edweek.org/ew/articles/2014/09/24/05math.h34.html?r=1960475723&preview=1>

Three issues are notable. First, DESE personnel violated the 2013 and 2014 appropriations legislation prohibiting expenditures for the implementation *or support* of the CCSS when contracting for CC-aligned assessments in August of 2014. When DESE contracted with Questar to administer the Riverside-constructed assessments in Summer 2014, school districts had been migrating their curricula and instruction to the CC standards for four years (2010-2014). Assessing students in 2014 using instruments aligned to standards developed before 2010 compromised the content validity of the assessment.

Finally, the intermingling of scores from the Summer 2014 assessment with Fall 2014/Spring 2015 scores is inappropriate because the two sets of scores are generated from qualitatively different tests aligned to qualitatively different standards. The 2012 *SBAC Preliminary Test Blueprints* described the involvement of the chiefs of all governing states in the development and adoption of the test blueprints occurring between October 9 and November 19, 2012 (p. 5). DESE personnel must have understood the compromises involved in changing assessment content and form on short notice, but apparently chose to compromise the validity and reliability of student test results rather than the State's accountability reporting deadlines.

3.3.6.3 Questions

- Were cutpoints for EOCs, in fact, developed from SBAC's 2014 online and face-to-face activities?
- Why did DESE contract Questar to conduct a cutpoint validation panel meeting within months of the release of SBAC cutpoints when the SBAC cutpoints were "preliminary"?
- Why does the annual presentation of the statewide assessment results to the State Board of Education not include some notation of the differences between the Summer 2014 assessment administration and results and those of the Fall 2014/Spring 2015?
- How is the public education system served by the administration of poorly developed assessments and reporting of scores interpreted by "preliminary" cutpoints?

3.3.7 2015 – DESE and State Board of Education Continue Implementation of CCSS and Flawed CC-aligned Assessments Despite Call to Comply with Statutory Requirements and Prohibitions, Court Ruling, Professionals' Warnings, and Violations of Professional Standards of Practice

3.3.7.1 Evidence

A series of actions by a Cole County judge and legislators publicized the flawed decisions of DESE and the State Board of Education, but DESE personnel continued to implement the CCSSI by indirectly and directly circumventing case and statutory law. Evidence of repeated violations of Missouri statutes follow:

- **January 12-13, 2015**, Assistant Commissioner Sharon Helwig presented information to State Board of Education about the SBAC achievement standard setting process for grades 3-8, 11 SBAC assessments. The cutpoint-setting conference conducted in October 6-19 2014 produced cutpoints described as “preliminary,” (see above).⁷¹ Helwig’s presentation included achievement levels for English language arts and mathematics grade-level assessments 3-8 and 11. The agenda item docket item stated, “All Smarter Balanced states were actively involved in setting these new achievement levels. However, achievement levels must be approved by the State Board of Education in order for them to apply to Missouri students.” At DESE’s recommendation, the State Board of Education passed a motion to accept the achievement levels and achievement level descriptors as presented.⁷²
- **February 2015**, Questar conducted a cutpoint validation panel meeting. The purpose of the validation panel was to validate existing cutpoints on the CC-aligned EOCs.⁷³ A review of the February through August State Board agendas do not list any items for State Board approval of the validation panel’s EOC cutpoint recommendations.
- **February 24, 2015**, Judge Daniel Green ruled that the SBAC was an “unlawful interstate compact of states to which the U.S. Congress has never consented, whose existence and operation violate the Compact Clause of the U.S. Constitution, Article I, §10, cl.3, as well as numerous federal statutes; and that’s participation in the Smarter Balanced Assessment Consortium as a member is unlawful under state and federal law.”⁷⁴
- **March 12, 2015**, State Representative Kurt Bahr introduced a resolution asking then-Commissioner of Education Chris Nicastro to provide information to the general assembly on several issues related to the Smarter Balanced Assessments as per HB 1490 2 Section 160.526.2.⁷⁵
- **March 15, 2015** Steven Rasmussen, a principal investigator on six National Science Foundation (NSF) projects and publisher of mathematics curriculum and software,⁷⁶ published a scathing review of the **SBAC-developed 2014-2015 mathematics test items** in a report, *The Smarter Balanced Common Core Mathematics Tests Are Fatally Flawed and Should Not Be Used An In-Depth Critique of the Smarter*

⁷¹ <https://dese.mo.gov/state-board-education-agenda-and-minutes-2015-archives>

⁷² <https://dese.mo.gov/sites/default/files/Jan2015Minutes.pdf>

⁷³ <https://dese.mo.gov/sites/default/files/asmt-tac-eoc-tech-report-1415.pdf>

⁷⁴ <http://www.moagainstcommoncore.com/Sauer%20v.%20Nixon%20-%20Judgment.pdf>

⁷⁵ <http://www.house.mo.gov/Bill.aspx?bill=HCR51&year=2015&code=R>

⁷⁶ <http://mathedconsulting.com/about/>

Balanced Tests for Mathematics. Rasmussen posted the following on his consulting firm website,

In the Spring of 2015, tests developed by the Smarter Balanced Assessment Consortium were administered to well over 10 million students in 17 states to determine their proficiency on the Common Core State Standards for Mathematics (CCSSM). In our analysis of the mathematics test questions posted online by Smarter Balanced we revealed that, in question after question, the tests:

- Violated the standards they are supposed to assess;
- Could not be adequately answered by students with the technology they are required to use;
- Used confusing and hard-to-use interfaces; or
- Were graded in such a way that incorrect answers are identified as correct and correct answers as incorrect.

We concluded that no tests that so flawed should be given to anyone. Certainly, with stakes so high for students and their teachers, these Smarter Balanced tests should not be administered. The boycotts of these tests by parents and some school districts are justified. We urged responsible government bodies to withdraw the tests from use before they did damage.

In his report, Rasmussen refers to a July 2012 report by Measured Progress that warned Smarter Balanced of the assessment flaws Rasmussen observed in 2015:

In July 2012, Measured Progress, a contractor to Smarter Balanced, warned in Smarter Balanced Quality Assurance Approach Recommendation for the Smarter Balanced Assessment Consortium:

In this industry and with a system of this highly visible nature, the effects of software that has not been sufficiently tested can lead to an array of problems during a test administration that can be financially and politically expensive.³²

Interestingly, my online review of the Smarter Balanced proposals and contract documents finds little evidence of attention to quality assurance at the level of “widget” or item development. There are vague statements about item review processes, but few specifics. There is a tacit assumption that the companies that develop high-stakes tests know how to develop mathematical test items and will do it well and that they are capable of performing their own quality assurance. Those of us in the education industry know better.

Unfortunately, the Smarter Balanced tests are lemons. They fail to meet acceptable standards of quality and performance, especially with respect to their technology enhanced items. They should be withdrawn from the market before they precipitate a national catastrophe.

Excerpts from Rasmussen’s report include the following:

This Spring, tests developed by the Smarter Balanced Assessment Consortium will be administered to well over 10 million students in 17 states to determine their proficiency on the Common Core Standards for Mathematics. If the results are disappointing, who should shoulder the blame—the students, their teachers, the administrators, the standards? Based on my analysis of the available test items, the real culprit will be the tests themselves. [emphasis added]

I took a close look at the Smarter Balanced practice and training tests available online. What I found shocked me: a quagmire of poor technological design, poor interaction design, and poor mathematics that hopelessly clouds the insights the tests might give us into students’ thinking.

There is no reason for requiring computers for these tests. Not one of the practice and training test items is improved through the use of technology. The test is not “smarter” as its name implies. The items do not probe deeper than a paper-and-pencil test can. The primitive software used only makes it more difficult for students and reduces the reliability of the resulting scores.

If the released items on the tests are indicative of the quality of the actual tests—and Smarter Balanced tells us they are—their shoddy craft will directly and significantly contribute to students’ poor and inaccurate scores. The result? Untold numbers of students and teachers will be traumatized, stigmatized, and unfairly penalized. And sadly, struggling students will likely be penalized more than proficient students as the cognitive load of grappling with poorly designed software will compound other anxiety-producing factors to unnecessarily reduce their scores.

The results of the Smarter Balanced tests for 2014–2015, . . . The general public has every reason to believe that these results accurately reflect the state of mathematics education in this country, so they will not realize that the performance of students on these tests is lower, in significant part, to the poor craft of the test makers. [emphasis added]

. . . the incompetent test makers will get a free pass.

There is no good reason for the tests to be this bad. The past forty years of extraordinary progress in research-directed development of mathematics visualization and technology for expressing mathematical reasoning could be put to use to power these tests—elegantly and effectively. The test makers failed to apply this research.⁷⁷

- **May 5, 2015, DESE** disseminated a Legislative Q&A providing responses to questions DESE received from lawmakers during the 2015 legislative session. Referencing the new CC-aligned assessments, DESE stated, “Each test will include questions that have been written and reviewed extensively by educators in each of the states in the Smarter Balanced Consortium, including Missouri. . . . The Spring 2014 MAP assessment and Spring 2015 assessment are different tests, based on different standards. The cut scores are not comparable. Because of the new content expectations tested this year and a new online test format, it’s possible that proficiency rates will go down.”
- **May 8, 2015,** Governor Nixon signed the appropriations legislation, HB 002. Section 2.050 lines 9-10 of that legislation stated, “ . . . no funds shall be used to implement the Common Core Standards.”⁷⁸
- **July 2, 2015,** a memo filed by Stacia Dawson of the Office of Administration noted the following strategy by which DESE circumvented the judge’s ruling and the 2015 HB 002:

The Department of Elementary and Secondary Education has requested that contract 315002001 be amended and renewed for the Spring 2016 assessments The current contract for the Missouri Assessment Program relies on the use of items from Smarter Balanced, CTB/McGraw-Hill has approached DESE and provided in writing an offer to license their items at no additional cost to the state. CTB/McGraw-Hill will still provide the administration, scoring, and reporting as required in the current contract with the only change of using the items from CTB/McGraw-Hill rather than Smarter Balanced. . . .
- **July 8, 2015,** DESE’s Assistant Commissioner Helwig sent a letter to SBAC’s executive director, informing him that “Missouri will not continue as a licensee of materials for the 2015-2016 school year . . . The appropriations bill passed by the legislature and signed by the governor contains language preventing the agency from spending money as a member or licensee of the Smarter Balanced Assessment Consortium.”

⁷⁷ <http://mathedconsulting.com/wp-content/uploads/2015/04/Common-Core-Tests-Fatally-Flawed.pdf>

⁷⁸ <http://www.house.missouri.gov/billtracking/bills151/hlrbillspdf/0002L.05T.pdf>

- **August 2015**, DESE presented the Summer 2014-Spring 2015 EOC assessment results to the State Board of Education.⁷⁹ Two items are noteworthy:
 - A review of the State Board of Education 2015 January through August meeting agendas available on the DESE website does not indicate any agenda item for Board approval of the new EOC cutpoints determined by the DESE-appointed cutpoint validation panel in February of 2015.⁸⁰
 - The PowerPoint presentation provides no evidence that the Board was informed of the differences between the Summer 2014 and Fall 2014/Spring 2015 assessments. The overall percentages within the Proficient+Advanced categories appear to be a composite of the results from both of the assessments aligned to different standards.
- **December 10, 2015**, President Barack Obama signed the Every Student Succeeds Act (ESSA), which is the federal law that authorizes grants to states that meet conditions set in the law.⁸¹ Section 1111(b)(2)(B)(iv) of the act requires state departments of education to post the evidence of the statewide assessments' technical quality (validity and reliability) on the department website.
- **December 2015**, the *End-of-Course Assessments Technical Report 2014-2015* described the EOC assessment program.⁸² Excerpts described the differences between the assessments administered during the Summer 2014 assessment window and the Fall 2014/Spring 2015 assessment windows:

Test forms for all MO EOC Assessments in Summer 2014 were intact forms previously administered in other testing administrations. Test forms in Fall 2014 and 2015 for Biology, Government, and American History were also intact forms previously administered in other testing administrations. However, starting in Fall 2014, the following changes occurred for English I, English II, Algebra I, Algebra II, and Geometry:

⁷⁹ <https://dese.mo.gov/sites/default/files/Assessment-August2015.pdf>

⁸⁰ <https://dese.mo.gov/state-board-education/agendas-minutes>

⁸¹ <https://congress.gov/114/plaws/publ95/PLAW-114publ95.pdf>

⁸² <https://dese.mo.gov/sites/default/files/asmt-eoc-tech-report-1415.pdf>

- Revised test blueprints
- New test forms
- Alignment of existing items in English Language Arts and Mathematics to the Missouri Learning Standards
- New scoring rubrics for performance events (Pes) and change of PE scores
- Change of test length and total score points . . . (p. 1)

Because the Summer 2014 test forms were intact forms, the existing raw to scale score (RSS) conversion tables were used. Because new test forms were used for English II, Algebra I, English I, Algebra II, and Geometry beginning in Fall 2014, new RSS tables were created by post-equating. (p. 1)

The main goal of the [2015] cutpoint validation was to validate the existing cut scores for the English I, English II, Algebra I, Algebra II, and Geometry Assessments. (p. 31)

A cutpoint validation workshop was conducted in February 2015 for English II, Algebra I, English I, Algebra II, and Geometry. Changes to the test forms were not enough to conduct a full standard setting for these content areas, so cutpoint validation occurred instead to review the existing cut scores to determine if they were still appropriate. . . . The focus of cutpoint validation was to revisit cutpoints that have been previously established. Therefore, cutpoint validation was not a simple replication of the standard setting process. Unlike standard setting, cutpoint validation focused on the overall cut scores and student achievement level distribution (presented as impact data) rather than focusing at the item level. (p. 32)

Nineteen panelists participated in the 2015 cutpoint validation workshop. Panelists included classroom teachers who taught English Language Arts and Mathematics in Missouri schools, had administered the MO EOC Assessments in their respective content area, and were familiar with the standards.

. . . These new cuts will be used for future assessments. (p. 32)

Table 4.1 lists the number of students by content area for each administration that were used in the analyses. (p. 34) [NOTE: Below is a partial Table 4.1]

Table 4.1 N-Count per Content Area for Each Administration

Test Period	Content Area	N-Count
Summer 2014	English II	362
	Algebra I	879
Fall 2014	English II	2, 434
	Algebra I	5, 130
Spring 2015	English II	32, 304
	Algebra I	62, 738

A document delineating Changes for the 2014-2015 MO EOC Technical Report states:

NOTE: Questar does not have test specifications for the newly developed test forms, so those tables are left blank. We will fill out these tables as soon as DESE provides that information.⁸³

3.3.7.2 Comment

Improper Advising. Just as it is improper to advise school districts to insert raw scores obtained from standardized assessments into course grades; it is improper to advise members of the State Board of Education to accept *preliminary* cutpoints for assessments still under development as the official cutpoints for classifying student achievement levels. SBAC publicly stated that the *preliminary* cutpoints released in Fall 2014 would likely be adjusted, but in the rush to put CC-aligned assessments in place, DESE recommended premature action to the Board, which the Board obliged. DESE then prepared for future administration of CC-aligned EOCs by constituting a cutpoint validation panel to validate (not develop) EOC cutpoints. The fact that 2015 State Board of Education agendas did not provide evidence of an opportunity for the Board to review and approve the new EOC cutpoints (see Helwig’s statement above) means there was no opportunity for public review or comment by school districts to determine when their students had met *proficiency* (as per HB 1490 Section 160.518.1) prior to their application and report of results to the State Board.

Skirting State Law. When Cole County Judge Green ruled that SBAC was an illegal state compact in Missouri, the ruling did not prohibit DESE from accessing SBAC assessment items through vendors. A July 2015 Office of Administration file memo confirmed that SBAC assessment items would come to DESE indirectly via CTB/McGraw-Hill rather than directly from Smarter Balanced. DESE then paid CTB/McGraw-Hill and Questar for administering, scoring, and reporting of results generated from the CC-aligned assessments, thereby,

⁸³ <https://dese.mo.gov/sites/default/files/asmt-tac-eoc-tech-report-changes-1415.pdf>

influencing the implementation of the CCSS in Missouri in violation of prohibitions in the appropriations bills signed by Governor Nixon in 2013, 2014, and 2015.

The public assumes that statewide assessments administered to students are professionally certified by independent reviewers as valid and reliable and legally defensible *before* they are administered and results are used for decision-making. Independent education consultants provided public reviews of the SBAC assessment items and documented that the SBAC assessments failed to meet acceptable standards of quality and performance, especially with respect to their technology enhanced items. The fact that Questar had not received item specifications may be explained by the poor quality of the test items described by Rasmussen, McRae, and Foster. Without item specifications for the CC-aligned assessments, Questar’s comments about item analysis are a generous guess of the assessments’ integrity.

Representative Kurt Bahr filed a resolution requesting that the then-Commissioner Nicastro comply with HB 1490 and report validity and reliability information to legislative leadership. No written response was provided to the Representative’s office. Federal law mandates that the technical adequacy of assessments used to qualify for ESSA grants should be posted on the Department website. To date, DESE has not posted the technical adequacy of MAP assessments, including CC-aligned EOCs as per federal law.

Shifting Responsibility for Incomparable Data. District Testing Coordinators expressed frustration during the August 30, 2015 webinar when DESE personnel announced that Algebra I and English II results would be withheld. Commissioner Vandeven responded to a participant’s comment by stating the following:

. . . It’s hard to establish trend data when the tests are constantly changing. Again, another area that we sympathize with, and I don’t mean to point fingers or do other things, but I think you know that there were very unusual circumstances and many of those decisions about the change in tests were taken out of the hands of the Department, but we will do whatever we can to use this kind of experience to continue to articulate the importance of not drastically and quickly changing tests. We do need the time to do things appropriately and we will . . . (approximately 31:30-minute mark)

The references to “decisions about the change in tests were taken out of the hands of the Department” and “drastically and quickly changing tests” apparently are meant to shift responsibility for changes to statewide assessments to actors outside of DESE. The fact is no actors other than DESE personnel are responsible for quick and drastic changes to the statewide assessments. Judge Green’s 2015 court ruling and the legislature’s prohibition of appropriations for payment of membership fees to SBAC had no influence on the design or administration of the EOC assessments as can be seen in Table 1 below. Table 1 is populated with information taken from Tables 5 and 6 in Questar’s *Missouri End-of-Course Algebra I and English II Form*

Effect Considerations. The same two CC-aligned Algebra I and English II assessment forms developed by DESE in collaboration with CTB/McGraw-Hill have been administered in rotation since Fall 2014.

Table 1. Rotation of CC-Aligned EOCs in Algebra I and English II

School Year	2014-2015		2015-2016			2016-2017		
Session	FALL	SPR	SUM	FALL	SPR	SUM	FALL	SPR
Form	G	H	G	H	G	G	G	H

Note that in the second column, the Summer 2014 assessment window is omitted from 2014-2015. The omission indicates that the CC-aligned assessment was not administered due to a breakdown in DESE's contract negotiations with CTB/McGraw Hill. Questar administered the Riverside-constructed assessment instead as DESE's Michael Muenks instructed.

Questionable Reporting Practices. Research of the documents available on the DESE website has not yielded the method DESE used to reconcile the student scores from the two different assessments, aligned to two different standards, scored with two different rubrics, and using two different cutpoints administered in the same school year. Yet it appears that data generated from different conditions were combined into a single percentage number as reported to the State Board of Education in August 2015.⁸⁴

3.3.7.3 Questions

- If SBAC released the 2014-2015 cutpoints as *preliminary*, why did DESE constitute a cutpoint validation panel immediately afterward? Why not wait until more data became available?
- How can Missouri's State Board of Education adopt SBAC-generated cut points without knowing the names and teaching experience of the face-to-face SBAC cutpoint panel?
- What are the names and teaching positions of the MO cutpoint validation panel members?
- How did DESE's cutpoint validation process comply with Missouri's HB 1490 Section Section 160.518.1 that requires maximum flexibility given to school districts to determine when students are Proficient in the knowledge, skills, and competencies adopted by the State Board of Education?
- What is the technical quality of the various MAP forms including the CC-aligned EOCs?
- Why is DESE noncompliant with federal law with regard to posting the technical adequacy data on its website?

⁸⁴ <https://dese.mo.gov/sites/default/files/Assessment-August2015.pdf>

3.3.8 2016 – Questar Informed DESE Assessment Forms Were Not Equivalent Before Spring 2017 EOC Administration

3.3.8.1 Evidence

DESE's TAC requested a recalibration study of assessment forms in response to a decline observed in the 2016 Biology EOC scores. The study resulted in a change of cutpoints for the Algebra I EOC and changes to the English II EOC that caused an unexpected decline in the percentage of students scoring as Proficient+Advanced. The dramatic difference in student performance levels was attributed to inequivalent test forms. Questar reported the problem to DESE *before* administration of the Spring 2017 EOCs, but there is no evidence DESE communicated with districts about the strong possibility of a decline in the percentage of student scores that would qualify as Proficient+Advanced. The poor quality of SBAC mathematic items was not considered as a factor in the differences between test forms despite public comments from experts in test construction indicating that the SBAC test items are unlikely to generate valid and reliable results. Evidence that the recalibration study reflects not only differences in test forms, but the quality of the test items on the forms follow:

- **November 23, 2016**, Questar submitted to DESE's TAC *Spring 2015 and Spring 2016 Recalibration Results for the Missouri EOC Assessments*.⁸⁵ The following are excerpts from the study:
 - As requested by the Missouri Technical Advisory Committee (TAC), Questar Assessment, Inc. (Questar) ran the recalibration [results for the MO EOC assessments in Biology, **Algebra I**, Algebra II, American History, **English II**, and Government.] . . . The study was conducted in response to a significant drop of student performance in Biology in Spring 2016, after which the Missouri TAC and Department of Elementary and Secondary Education (DESE) requested that Questar refresh the equating across all multi-form MO EOC assessments to minimize variations in test results statewide due to form differences.
 - The cut scores for Algebra I and Algebra II increased dramatically compared to the existing form due to the forms being easier. The cut scores for the other three content areas [Biology, American History, and Government] were the same or one point different, with the exception of the English II Basic cut score for Spring 2016 where the cut score increased by 3 points. (p. 5)
 - Possible causes for the unexpected Algebra results are an evolving curriculum over time causing item drift, exposure of items over time, changes to instructional materials used in classes, or a combination of factors. However, in many states the Algebra assessments typically have the lowest proficiency rates.

⁸⁵ <https://dese.mo.gov/sites/default/files/asmt-tac-eoc--2015-2016-recalibration-study-112316.pdf>

- Rasmussen explained that the Smarter Balanced math test items had not been improved since 2014-2015:

After the 2015 tests were administered, McGraw-Hill, the developers of the Smarter Balanced tests sold their CTB/McGraw-Hill testing division to Data Recognition Corporation and laid off most of the staff that had worked on the tests. As we stated in our report, “In the current political climate, there will not be funding available for those who could fix them to actually fix them.” McGraw-Hill, having profited handsomely from their contracts to develop the tests, bailed out before they were held responsible for the disaster they created. In the year since we released our in-depth report, Smarter Balanced has improved their website design, rolled out a big public relations campaign to convince parents of the virtues of the test, but they have done little or nothing to improve the tests themselves. Before writing this blog post I took several of the 2016 practice and training tests available on the Smarter Balanced site. While different problems have been pulled from the testing data bank to offer up as items on these practice tests, the new items suffer from the same terrible design as the 2015 items. . . . In 2017 these tests will be given again—just as they were in 2016. The tests have not changed. . . . What we reported in 2015 is equally applicable to the 2017 and 2016 tests.

- **December 2016**, the *End-of-Course Assessments Technical Report 2014-2015* was submitted to DESE’s TAC.⁸⁶ The report confirmed that neither the EOC assessments nor their cutpoints have changed since the 2014-2015 school year:

All the EOC tests were intact from previously administered in other testing administrations. Most recently, **beginning in Fall 2014** [the updated English I, English II, Algebra I, Geometry, and Algebra II assessments **provided by the state agency in the Fall 2014 . . . to align the assessments with the CCSS. This work was completed through a contract with CTB/McGraw Hill.** The CCSS assessment items provided by CTB/McGraw-Hill were developed under CTB/McGraw-Hill’s contract with the Smarter Balanced Assessment Consortium] new test forms were developed for English I, English II, Algebra I, Algebra II, and Geometry . . . (p. 19).

Item development was not conducted for 2015-2016. . . (p. 24)

⁸⁶ <https://dese.mo.gov/sites/default/files/asmt-tac-eoc-1516-technical-report.pdf>

A cutpoint validation workshop was conducted in February 2015 for English II, Algebra I, English I, Algebra II, and Geometry. . . . The final cutpoint validation report is provided in the 2014-2015 MO EOC Technical Report.

3.3.8.2 Comment

Questar’s comment that Algebra assessments typically have the lowest proficiency rates is consistent with comments from independent reviewers that the SBAC mathematics assessment items are poorly constructed. Questar’s *End-of-Course Assessments Technical Report 2014-2015* confirmed what Rasmussen said in his review of 2016-2017 mathematics test items – no new items were developed. It appears that work on SBAC test items stopped at the expiration of the USED grant. According to the *MO EOC Spring 2017 Online Testing Network Slowdown* report, the assessment forms for English language arts and mathematics were supposed to be pre-equated, yet as discussed above, data reported from the *Missouri End-of-Course Algebra I and English II Form Effect Considerations* Tables 5-6 strongly imply that the forms are not equivalent. If Missouri EOCs were constructed using SBAC-developed test items, and the items themselves were of questionable quality, especially in mathematics, the quality of the test and not just the equivalence of forms must be evaluated. Questar needs to provide extensive evidence of performing equating in a reliable manner, and independent reviewers need to document the validity and reliability of the test items as well as the tests.

3.3.8.3 Questions

- Why did DESE proceed with administration of EOCs that a 2016 Questar study indicated would generate a decline in student performance due to test form issues?
- Why did DESE persist in administering CC-aligned assessments despite prohibitions in the appropriations legislation?
- What assurances can DESE produce for the General Assembly and the public that the statewide EOC assessments in English language Arts and mathematics are valid and reliable?

3.3.9 2017 – The Perfect Storm: Unscorable Algebra I EOC Responses, Inequivalent Algebra I Assessment Forms, and Standardized Assessment Raw Scores in Student Course Grades

3.3.9.1 Evidence

A “perfect storm” of unexpected events occurred in Spring 2017 that resulted in DESE withholding information from school administrators and the public, despite the implications that information has for students. Information available on the internet and documents available on

DESE's TAC webpage are used to identify and explain the data DESE chose to withhold from the August 2017 release of annual MAP results.

- **January 27, 2017**, Questar became a separate, for-profit subsidiary of ETS sharing operating resources with ETS.^{87,88}
- **March 2017**, Questar submitted *MO EOC Algebra I and Algebra II P-Value Study* to DESE's TAC.⁸⁹ Excerpts of the report are:

An analysis of the test form p-values was requested by the Missouri Technical Advisory Committee (TAC) as a follow-up to the Spring 2015 and Spring 2016 recalibration study presented by Questar Assessment, Inc. (Questar) at the December 2016 TAC meeting. The results of the recalibration study showed that the Algebra I and Algebra II test forms were much easier than original forms when recalibrated. Therefore, the TAC requested p-value information to determine if the items have gotten easier over time, thus aiding in the interpretation of the Algebra I and Algebra II recalibration results.

For the p-value study, Questar analyzed the test results for Forms G and H for Algebra I . . . for the Fall 2014-Fall 2016 administrations. Beginning with the Fall 2014 administration, new operational forms were used for . . . English II, Algebra I, . . . MO EOC Assessments. Some of the changes included the application of revised test blueprints [developed the SBAC consortium members] and change of test length and total score points. (p.1)

Overall, the investigation into the p-value trends across time did not reveal that the tests were getting easier, which may have been an indication of gains in student learning or a test breach. . .

- **April 25, 2017**, 251 Missouri School Districts experience a computer network slowdown during administration of EOCs due to high volume of Missouri EOC test takers.⁹⁰
- **May 23, 2017**, Blaine Henningsen and Chris Neale distributed an Administrative Memo indicating that "Data from the assessment vendor will be used to ensure that the 95 percent participation rate required for federal accountability purposes is met."⁹¹

⁸⁷ <http://www.questarai.com/company/press-and-media/ets-acquire-questar-assessment-inc/>

⁸⁸ <http://news.ets.org/press-releases/ets-acquire-questar-assessment-inc/>

⁸⁹ <https://dese.mo.gov/sites/default/files/asmt-tac-eoc-algebra-pvalue-study-0317.pdf>

⁹⁰ <https://dese.mo.gov/sites/default/files/asmt-tac-eoc-network-slowdown.pdf>

⁹¹ <https://dese.mo.gov/sites/default/files/am/documents/QS-17-007-Administration-of-Summer-End-of-Course-Assessment.pdf>

- **May 31, 2017**, Questar submitted *MO EOC Spring 2017 Online Testing Network Slowdown*. The report asserted that, “. . . The MO EOC Assessments are intact **pre-equated** forms.” (p. 1)
- **June 29, 2017**, Questar submitted, *Deriving Scale Scores for Students with Unscorable Algebra I Performance Event (PE) Responses*.⁹²
- **August 2017**, Questar submitted *Missouri End-of-Course 2016-2017 Performance Results*.⁹³ (See Appendix for graphics and explanation of 2015 through 2017 Algebra I and English II EOC data extracted from annual DESE presentations of MAP results.^{94,95,96}
- **August 2017** submitted *Missouri End-of-Course Algebra I and English II Form Effect Considerations* to DESE’s TAC.⁹⁷ The report stated,

The TAC concluded that form effects were present for English II and Algebra I. Form H was administered in the Spring 2015 and 2017 and Form G was administered in Spring 2016. The Spring 2017 results show a slight decline in students achieving the Proficient and Advanced level compared to the Spring 2015 results (a 3.2% decline for English and 2.4% decline for Algebra I).

Although the recalibration results produced reasonable cut scores for English II, the cut scores for Algebra I were not reasonable, so no action was taken at the July meeting. TAC generally favored lowering the Proficient cut scores by one raw score point so students and districts are not disadvantaged by the form effect. Since the July meeting DESE has asked Questar to show the impact of lowering the cut score by one point at all performance levels. (p. 3)

- **August 30, 2017**, DESE personnel led two webinars to announce decision about Algebra I and English II EOC data. During the afternoon webinar, Dr. Chris Neale described the decision-making process as follows:

Even though we received our data late in July, we understood you had concerns ahead of time. When we finally received the statewide data, we echoed those concerns and immediately indicated further analysis was

⁹² <https://dese.mo.gov/sites/default/files/asmt-tac-eoc-alg1-pe-issue-report-062917.pdf>

⁹³ <https://dese.mo.gov/sites/default/files/asmt-tac-eoc-2016-2017-Results-0817.pdf>

⁹⁴ <https://dese.mo.gov/sites/default/files/Assessment-August2015.pdf>

⁹⁵ https://dese.mo.gov/sites/default/files/2016%20MAPRESULTS_SEPTEMBER2016_FINAL.pdf

⁹⁶ <https://dese.mo.gov/sites/default/files/EndofCourseSept2017.pdf>

⁹⁷ <https://dese.mo.gov/sites/default/files/asmt-tac-eoc-alg1-eng2-form-effect-0817.pdf>

needed, convened our assessment TAC, the national experts who review outcomes and advise us about what they're finding in those outcomes, . . . When the TAC cannot settle on a defensible treatment of the data to make them usable, we aren't left with many alternatives. So, what we are adapting to is the exclusion and really not working at trying to figure out how to make the data say something different than it does. . . . (approximately 8:45-minute mark)

- **August 30, 2017**, The Springfield News-Leader reported, “DESE will not release results for two key high school exams this year.”⁹⁸ Algebra I and English II EOC exams would not be released due to their questionable reliability and “comparability from year-to-year.” Commissioner Vandeven stated, “We are holding the testing vendor, Questar, accountable for not producing usable assessment results.”
- **August 30, 2017**, Jefferson City-based Associated Press reporter Summer Ballentine’s article, “Results From 2 Missouri High School Tests Tossed” was published in the *Southeast Missourian* and other online Missouri news outlets, as well as national news outlets such as *U.S. News*, the *Washington Times*, *SFGate*, and the education journal *Edweek*.^{99, 100, 101, 102, 103} Ballentine reported that DESE is hesitant to discuss specifics because the issue might end up in court and that a request for comment to Questar was not immediately returned. She also reported that DESE began working with the company in 2011, and that the agency followed required procedures in contracting with Questar.
- **October 2, 2017**, Deputy Commissioner Stacey Preiss, Assistant Commissioner Blaine Henningsen and Assistant Commissioner Chris Neale distributed a memo to school administrators as reported October 6 in the Joplin Globe.^{104, 105} The memo explained that a settlement had been reached with Questar for compensation of the 2017 Algebra I and English II EOCS that generated scores withheld by DESE. It also provided talking points to school district administrators that did not include information about the decline in assessment scores. The following is an excerpt from the memo:

⁹⁸ <http://www.news-leader.com/story/news/education/2017/08/30/dese-not-release-results-two-key-high-school-enot-all-state-test-scores-released-year-state-announce/618445001/>

⁹⁹ <http://www.semissourian.com/story/2439941.html>

¹⁰⁰ <https://www.usnews.com/news/best-states/missouri/articles/2017-08-30/results-from-2-missouri-high-school-tests-tossed>

¹⁰¹ <http://www.washingtontimes.com/news/2017/aug/30/results-from-2-missouri-high-school-tests-tossed/>

¹⁰² <http://www.sfgate.com/news/education/article/Results-from-2-Missouri-high-school-tests-tossed-12162397.php>

¹⁰³ http://www.edweek.org/ew/articles/2017/08/30/results-from-2-missouri-high-school_ap.html

¹⁰⁴ https://dese.mo.gov/sites/default/files/am/documents/LS-17-002_0.pdf

¹⁰⁵ http://www.joplinglobe.com/news/local_news/test-maker-to-pay-back-schools-for-unusable-tests/article_d494c7f1-82c9-5507-b5aa-2732a14970da.html

III. Sunshine Law Request

DESE has received a Sunshine Law request regarding the 2017 EOC results in Algebra I and English II. We must honor this request.

The data will be provided with the following caveats:

- A. The Missouri Assessment Technical Advisory Committee (TAC), made up of nationally recognized assessment experts, recommended that the data not be reported.
- B. DESE agreed with the TAC recommendation and will not publish the data on our Website for these two tests.
- C. Districts and charter LEAs are provided time to verify data sets (i.e., to make any Needed corrections to the data and to appeal test scores). Since these data were not to be reported by DESE, districts and charter LEAs may not have certified the data for these two tests. This means that, aside from the year-to-year comparability issues, the data could inaccurately reflect the performance of a particular district or charter LEA in other capacities as well.

. . . we believe that it would be irresponsible to publicly report data . . . in its current form.
Should someone contact you about these data, please refer to the above caveats.

3.3.9.2 Comment

The “perfect storm” of problems concerning Missouri’s CC-aligned EOCs in Algebra I and English II had been gathering strength since 2009 culminating in withholding of information about student performance scores in Spring and Summer of 2017. In both cases, it appears that information was withheld to maintain the public’s perception of the State Board of Education and DESE as state authorities. But DESE’s recent management of assessment data and information undermines that perception.

Technological Issues. DESE could not have known *beforehand* that there would be a computer network slowdown or other “technical issues” (likely associated with changes in Questar’s system since its takeover by ETS announced in January), but DESE must have known what district superintendents knew about the effect of breaching standardized procedures on the results of standardized assessment scores. DESE also must have known *soon afterward* that 176 student responses to Algebra I EOCs were classified as unscorable and ordered derived scores as scores for those responses. It appears that rather than compromise reporting deadlines, DESE chose to compromise student scores.

What is particularly egregious is that DESE recommends districts incorporate unreliable raw EOC scores into student grades. Those grades are recorded on permanent high school transcripts

that serve as indicators of college entrance and scholarship qualification. Invalid or derived scores that suppress overall grade point averages cause harm to students and families. DESE's failure to inform students of the risks caused by the Spring "technological issues" is similar to the malfeasance of Yahoo and Equifax in their failure to inform persons whose personal data had been compromised.

Recalibration Study. No minutes of TAC meetings are available to determine who made what recommendations in August 2017, about withholding Algebra I and English II EOC results. It appears, however, that DESE personnel knew in 2016 there was a risk that the 2017 Algebra I and English II data would show a decline, rather than improvement in student performance. Questar's *Missouri End-of-Course Algebra I and English II Form Effect Considerations* includes an explanation and two tables with adjusted Spring 2017 scores that explain why Dr. Neale would comment during the August 30 webinar, "we are adapting to is the exclusion [of data] and really not working at trying to figure out how to make the data say something different than it does." Excerpts from the August Questar report indicate that DESE requested Questar to show the effects of manipulating cutpoints in an effort to create more favorable results. If changes were made to the Spring 2017 cutpoints, however, similar changes would have to be made to the Fall cutpoints, likely lowering the 2017 results. Rather than explain problems with the Algebra I EOC forms to the public that paid for the assessments, DESE managed the problem by excluding the problematic data. The Preiss-Henningsen-Neale October 2 Administrative Memo chills discussion of DESE's decision to withhold information by impugning the character of administrators as "irresponsible" if they stray from DESE's talking points about the matter.

A Comprehensive Strategy for Coercing Student Participation in Statewide Assessments. Drs. Henningsen and Neale's May 23 memo indicated that DESE will enlist the vendor to collect student participation data, which amounts to coercion from the Department to prevent parents of students or emancipated students from opting out of statewide assessments. State authority over the education of free citizens violates the Judeo-Christian worldview held by many Missourians and acknowledged by the U.S. Supreme Court cases cited above.¹⁰⁶ Furthermore, Congress did not intend to violate parent authority over their children's education or the right of free citizens to determine the government programs in which they wanted to participate when it passed ESSA. ESSA allows flexibility in how the 95% participation rate in the law is calculated and reported. Members of Congress emphasized that ESSA did not authorize state departments of education to coopt decisions that belong to parents, emancipated students, the legislature, or local school boards. Parents' freedom to protect minors from whatever they perceive as harmful to their children must be protected, not restricted, by leaders in state government.

¹⁰⁶ http://foundationsforfreedom.net/Topics/Parenting/Parenting03_Authority.html

3.3.9.3 Questions

- Who determined that the Algebra I Forms G and H were “pre-equated”? DESE gave the forms to Questar for administration in Fall 2014. Did CTB/McGraw-Hill and DESE determine that the forms were equivalent and then Questar accepted their statement?
- Why didn’t DESE’s TAC insist on a report of the technical adequacy of the EOCs at their December 2016 meeting?
- Who determined that the unscorable test responses generated from the Algebra I EOC should be replaced with derived scores? Isn’t the State Board of Education, as the client, ultimately responsible for all decisions regarding statewide assessment in Missouri?
- Why does Commissioner Vandeven insist that changes in Missouri’s Assessment Plan were taken out of the Department’s hands, when the same EOC forms provided by DESE to Questar were administered after Judge Greene’s ruling in 2015 and after the legislature prohibited expenditure of appropriated funds on SBAC membership fees?
- Did DESE contact school administrators to inform them on the management of unscorable responses and the insertion of derived assessment scores in student course grades?
- How does DESE’s legal counsel advise the Department regarding its recommendation to districts to use raw scores in student course grades?
- Did DESE contact school districts to tell them they could anticipate a decline in Algebra I and English II EOC scores prior to assessment administration when it was informed by Questar of the likelihood of that happening in November 2016?

4. CONCLUSIONS

The Preamble of Missouri’s Constitution opens with a social compact which states,

We, the people of Missouri, with profound reverence for the Supreme Ruler of the Universe, and grateful for His goodness, do establish this Constitution for the better government of the state.¹⁰⁷

Article I, Section 1 declares, “That all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, . . .”
Section 2 guarantees,

. . . that all persons have a natural right to life, liberty, and the pursuit of happiness and the enjoyment of the gains of their own industry . . . that to give security to these things is

¹⁰⁷ <http://www.moga.mo.gov/preamble.htm>

the principal office of government, and that when government does not confer this security, it fails in its chief design.

MCACC contends that the State Board of Education and DESE have failed in their chief design.

In 1839, Missouri’s legislature established the Office of Education with an elected state superintendent. The 1945 Missouri Constitution established the State Board of Education in its present form and created a department of education headed by an appointed commissioner of education to. DESE was reorganized and established in its present form as the administrative arm of the State Board by the Omnibus State Reorganization Act of 1974.¹⁰⁸ Each iteration of the Department incrementally centralized oversight of education at the state level. Rather than diversify policies sensitive to needs unique to the metropolitan, suburban, or rural areas of Missouri, DESE and the State Board have responded to the standardization and centralization of education incentivized by Washington, DC-based organizations and funding sources. SB 380, Missouri’s Outstanding Schools Act of 1993, mandated the development of state-specific academic standards and assessments aligned to them. But, SB 380 was not developed by Missouri legislators to address state-specific problems. It was conceived by a paid consultant, Marc Tucker, President and Chief Executive Officer of the Carnegie Corporation of New York’s National Center for Education and the Economy.¹⁰⁹ SB 380 was planted over 20 years ago as stepping stone to Governor Nixon’s and DESE’s applications for USED grants homogenizing Missouri with the rest of the country under a national system of standards and assessments as explained in Tucker’s letter to Hillary Clinton.¹¹⁰

Since the introduction of CCSS and aligned assessments, that State Board of Education and DESE personnel have flouted appropriations legislation language prohibiting expenditures on the implementation or support of CCSS; yet, DESE observed language in the 2015 appropriations legislation prohibiting payment of SBAC membership fees. Apparently, because cessation of fee payment did not interrupt administration of CC-aligned assessment forms, DESE chose to comply with that particular section in the 2015 appropriations legislation. Had DESE complied with prohibitions against spending appropriations on the implementation or support of CCSS and not contracted with CTB/McGraw-Hill for development of CC-aligned EOCs in 2013, the 2017 events could have been avoided.

Furthermore, DESE’s recommendation to districts to use EOC raw scores as final exam grades demonstrates a lack of understanding about the appropriate use of standardized assessment scores and compels students to participate in poorly designed assessments or suffer a hefty penalty. The spread of DESE’s errors in judgement affect the entire state. In so doing, DESE has committed the state of Missouri to untold reparations owed all students affected by “technological issues” and inequivalent EOC assessment forms administered since 2014.

¹⁰⁸ https://sl.sos.mo.gov/cmsimages/bluebook/2011-2012/6_ElemSec.pdf

¹⁰⁹ <http://ncee.org/who-we-are/our-people/leadership/>

¹¹⁰ <http://www.crisismagazine.com/1996/hillarys-scarlet-letter>

Finally, the relationship between the Department and media reporters illuminates an ongoing problem of government transparency and the public's frustration with the inability to get coherent, truthful information about the expensive CCSSI experiment in Missouri's schools. If DESE truly served the public, it would direct reporters to pertinent documents available on Missouri's government websites and explain why the public's entrustment of tax dollars for CC-aligned assessments used for federal accountability purposes has been counterproductive. Even if reporters are not familiar with the statistical jargon in technical reports, newspapers could hire competent consultants to assist them in reporting to the public what is happening in public education. Rather than use the experiences of the past year as justification for exiting the CCSSI, DESE determined what reporters and the public should know so that DESE and the State Board of Education could stay the course set in 2010.

5. RECOMMENDATIONS

MCACC asks Missouri's elected state leadership to respond to our concerns by acting on the following recommendations:

- Call for an investigation into the contracts with CTB/McGraw Hill to provide SBAC-created assessment items and determine how DESE used the items in the development of English language arts and mathematics EOCs, and whether those items are built into the new EOCs scheduled for administration in the 2017-2018 school year;
- Call on the Attorney General to investigate the legal implications to the state of DESE withholding information from the 176 students whose Spring 2017 Algebra I responses were rendered unscorable, and all remaining student participants whose score may have been negatively affected by the computer slowdown on April 25, 2017;
- Call for the Joint Committee on Education to investigate the fiscal impact of the Department's recommendation regarding A+ eligibility for those 14,000 affected by the test administration problems and make a recommendation for appropriate action;
- Call for the Joint Education Committee to conduct a public hearing, that includes testimony from representatives of all vendors, districts, and affected students, into the "technical issues" associated with the Spring 2017 EOCs and DESE's decision to withhold information about Spring 2017 Algebra I derived scores, and results of Algebra I and English II EOC performance data;
- Call for the State Board of Education to instruct DESE personnel to reverse its recommendation to districts to incorporate EOC raw scores in course grades and cease

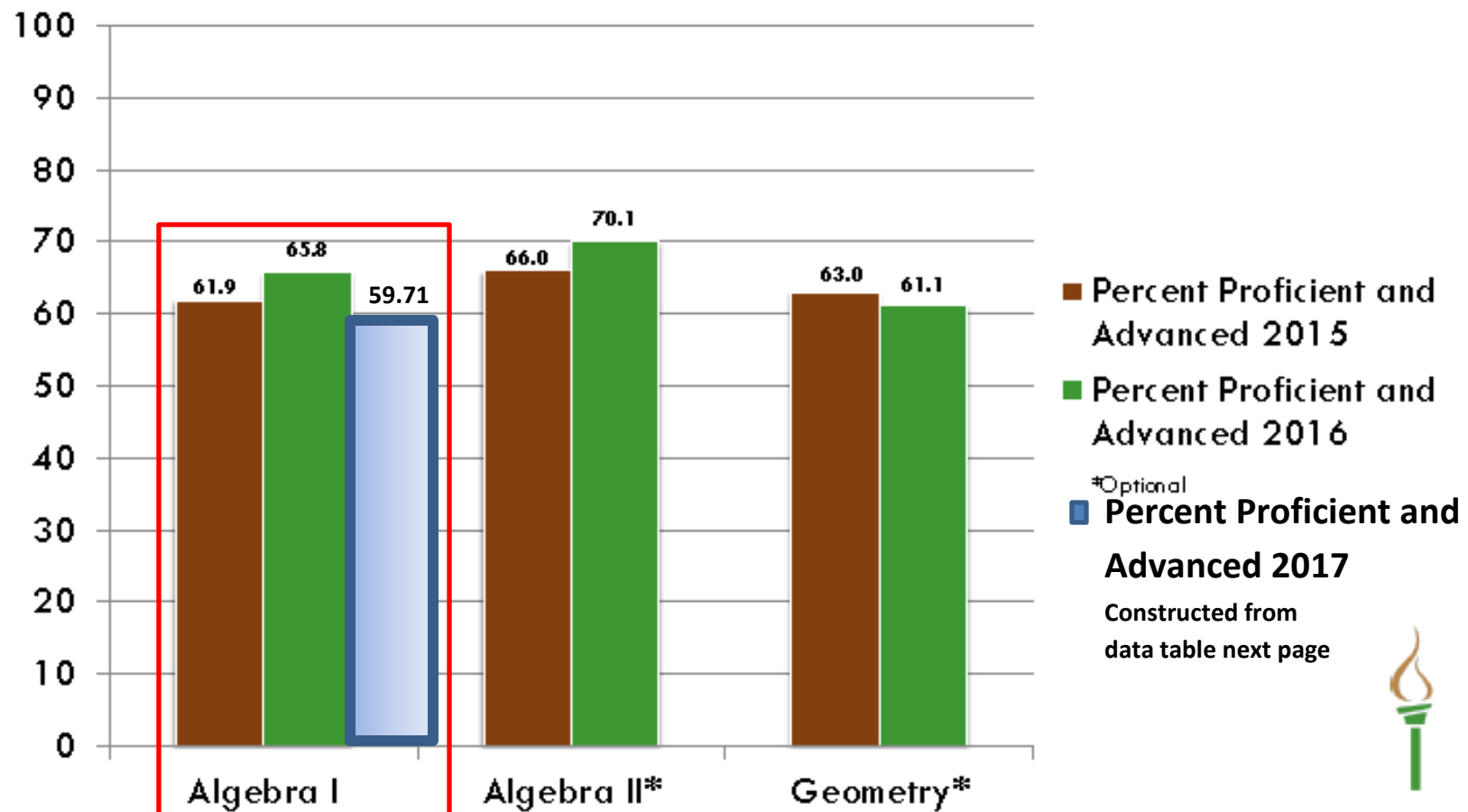
coercive practices, including but not limited to vendor data collection of student participation in statewide assessments;

- Direct the State Board of Education to confer with Missouri’s Congressional representatives regarding the intent of ESSA to protect parental rights to opt out of standardized testing and to make recommendations for legislative or regulatory action necessary for parents to protect their children from inappropriate decisions of state agencies and to bring our state into alignment with existing U.S. Supreme Court decisions and Congress’s intent;
- Call for the president of the State Board of Education to request the resignation of all DESE personnel who participated in the decision to advise school districts to ignore appropriation bill language prohibiting the implementation of CCSS, insert EOC raw scores in student grades, or withhold the EOC assessment results;
- Call for dismissal of DESE’s TAC committee members who accepted incomplete reports from Questar or recommended compromising government transparency;
- Call for the resignation of all State Board of Education members who implicitly or explicitly affirmed and protected DESE’s actions to administer assessments aligned to the CCSS in violation of Missouri legislation, DESE’s recommendation to use EOC raw scores inappropriately, or state policies that coerce student participation in statewide assessments; and
- File a bill to repeal SB 380, restore local control of public schools to local school boards, and restore parent authority over their children’s education. The bill should specify that public schools be governed only by policies voted on by locally elected school boards and elected state legislatures, not by federal guidelines, state departments of education, or boards of education appointed by a governor, nor by federal grants to state departments of education serving as pass-throughs to the public schools or to other private or public organizations.

APPENDIX

End-of-Course Mathematics Proficient and Advanced

9

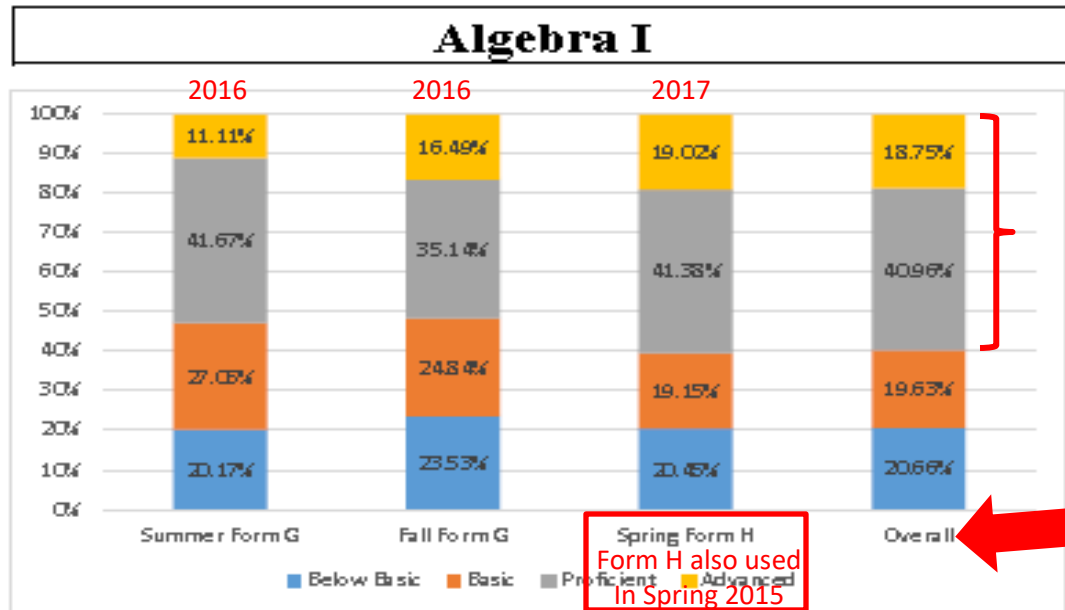


EOC Test Results 2016-2017 Appendix A

<https://dese.mo.gov/sites/default/files/asmt-tac-eoc-2016-2017-Results-0817.pdf>

	Summer Form G	Fall Form G	Spring Form H	Overall
Below Basic	167	1,042	12,392	13,601
Basic	224	1,100	11,601	12,925
Proficient	345	1,556	25,069	26,970
Advanced	92	730	11,520	12,342
Total	828	4,428	60,582	65,838

	Summer Form G	Fall Form G	Spring Form H	Overall
Below Basic	20.17%	23.53%	20.45%	20.66%
Basic	27.05%	24.84%	19.15%	19.63%
Proficient	41.67%	35.14%	41.38%	40.96%
Advanced	11.11%	16.49%	19.02%	18.75%



Test Period	Raw Score		Scale Score		Gender			Ethnicity								Total
	Mean	SD	Mean	SD		Female	Male	0	1	2	3	4	5	6		
Summer 2016	19.79	8.28	201.05	17.54	N	410	418	2	9	3	244	34	521	15	828	
					%	49.52%	50.48%	0.24%	1.09%	0.36%	29.47%	4.11%	62.92%	1.81%	100.00%	
Fall 2016	20.44	9.67	202.01	21.03	N	2,052	2,376	10	86	5	881	327	3,029	90	4,428	
					%	46.34%	53.66%	0.23%	1.94%	0.11%	19.90%	7.38%	68.41%	2.03%	100.00%	
Spring 2017	25.23	9.44	204.94	20.58	N	29,993	30,589	261	1,325	136	9,613	3,462	44,176	1,609	60,582	
					%	49.51%	50.49%	0.43%	2.19%	0.22%	15.87%	5.71%	72.92%	2.66%	100.00%	
Overall	21.82	9.13	202.67	19.72	N	32,455	33,383	273	1,420	144	10,738	3,823	47,726	1,714	65,838	
					%	49.30%	50.70%	0.41%	2.16%	0.22%	16.31%	5.81%	72.49%	2.60%	100.00%	

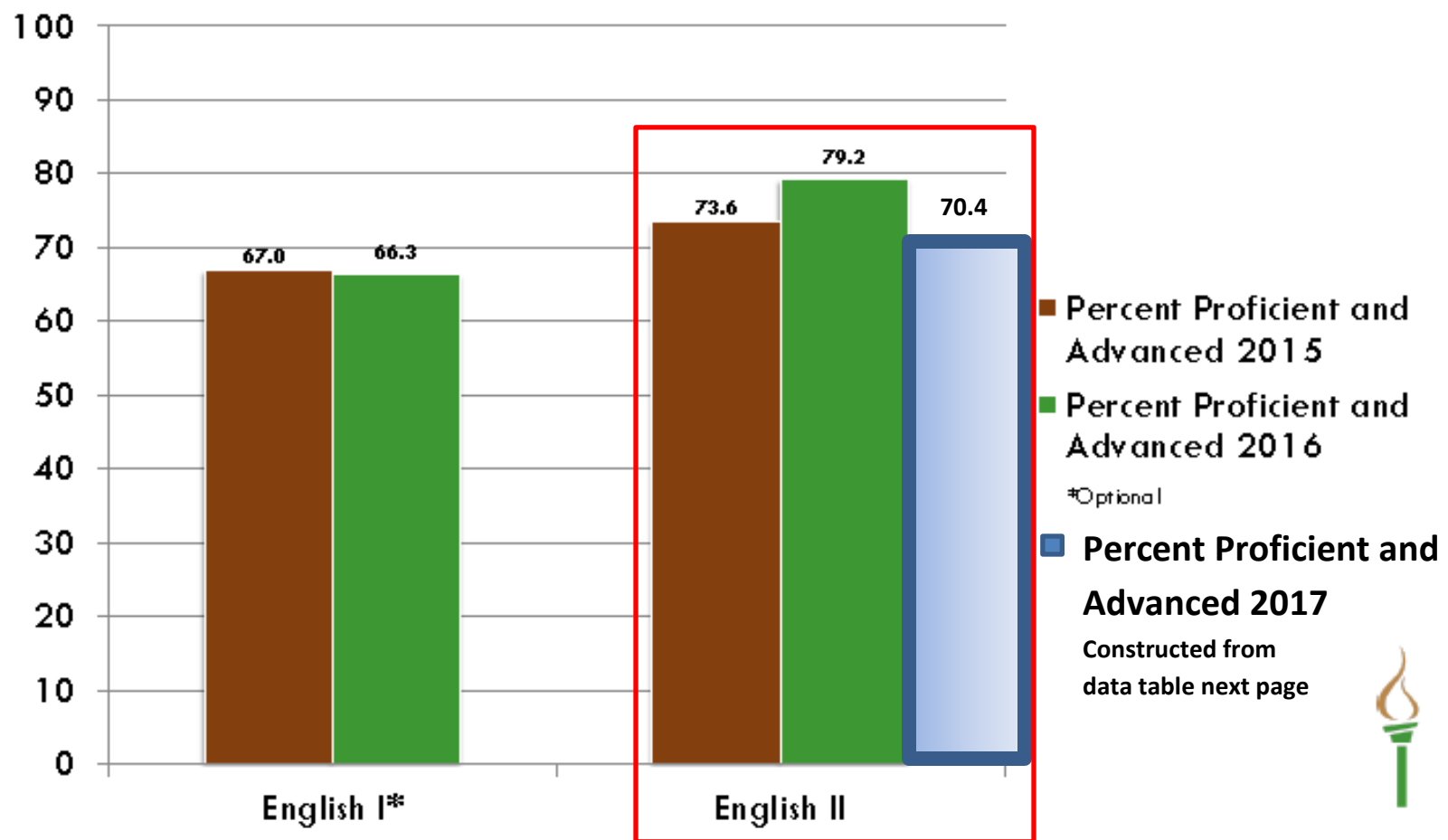
Ethnicity Codes:

- 0 = American Indian/Alaskan Native
- 1 = Asian
- 2 = Pacific Islander
- 3 = Black (Not Hispanic)
- 4 = Hispanic
- 5 = White (Not Hispanic)
- 6 = Multiracial (or multiple marks)

2015 data for Algebra I indicate *overall 62.1 %* of students scored at Proficient+Advanced (see previous page)

2017 data for Algebra I indicate *overall 59.7 %* of students scored at Proficient+Advanced for a decrease of 2.4% compared to 2015

End-Of-Course English Language Arts Proficient/Advanced

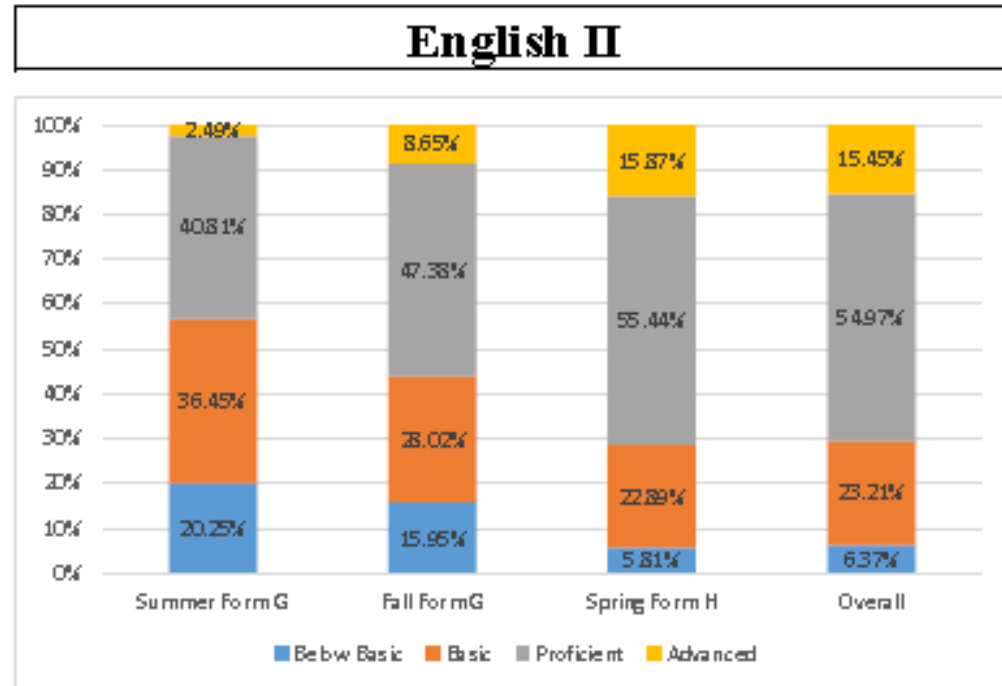


EOC Test Results 2016-2017 Appendix F

<https://dese.mo.gov/sites/default/files/asmt-tac-eoc-2016-2017-Results-0817.pdf>

	Summer Form G	Fall Form G	Spring Form H	Overall
Below Basic	65	509	3,576	4,150
Basic	117	894	14,098	15,109
Proficient	131	1,512	34,148	35,791
Advanced	8	276	9,772	10,056
Total	321	3,191	61,594	65,106

	Summer Form G	Fall Form G	Spring Form H	Overall
Below Basic	20.25%	15.95%	5.81%	6.37%
Basic	36.45%	28.02%	22.89%	23.21%
Proficient	40.81%	47.38%	55.44%	54.97%
Advanced	2.49%	8.65%	15.87%	15.45%



Test Period	Raw Score		Scale Score			Gender		Ethnicity							Total
	Mean	SD	Mean	SD		Female	Male	0	1	2	3	4	5	6	
Summer 2016	24.06	8.82	194.63	17.06	N	135	186	3	3	1	141	17	150	6	321
					%	42.06%	57.94%	0.93%	0.93%	0.31%	43.93%	5.30%	46.73%	1.87%	100.00%
Fall 2016	26.61	8.66	199.97	17.36	N	1,465	1,726	12	43	7	1,282	268	1,481	98	3,191
					%	45.91%	54.09%	0.38%	1.35%	0.22%	40.18%	8.40%	46.41%	3.07%	100.00%
Spring 2017	30.77	6.85	206.69	16.15	N	30,885	30,709	259	1,263	151	8,756	3,246	46,384	1,535	61,594
					%	50.14%	49.86%	0.42%	2.05%	0.25%	14.22%	5.27%	75.31%	2.49%	100.00%
Overall	27.15	8.11	200.43	16.86	N	32,485	32,621	274	1,309	159	10,179	3,531	48,015	1,639	65,106
					%	49.90%	50.10%	0.42%	2.01%	0.24%	15.63%	5.42%	73.75%	2.52%	100.00%

Ethnicity Codes:

0 = American Indian/Alaskan Native

1 = Asian

2 = Pacific Islander

3 = Black (Not Hispanic)

4 = Hispanic

5 = White (Not Hispanic)

6 = Multiracial (or multiple marks)

2015 data for English II indicate overall 73.6 % of students scored at proficient or advanced (see previous page)

2017 data for English II indicate overall 70.4% of students scored at proficient or advanced (see below) for a decrease of 3.2% compared to 2015