

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship of this proposal

#20 Adams	#44 Parley	#58 Kennedy	#54 Nozzolio	#26 Serrano
#11 Addabbo	#07 Flanagan	#34 Klein	#53 O'Mara	#51 Seward
#15 Alessi	#08 Fuschillo	#26 Krueger	#37 Oppenheimer	#09 Skelos
#11 Avella	#59 Gallivan	#24 Lanza	#21 Parker	#14 Smith
#48 Bell	#12 Gianaria	#19 Larkin	#13 Peralte	#25 Squadron
#47 Bonacic	#22 Golden	#01 LeValle	#30 Perkins	#16 Stavisky
#46 Breslin	#47 Griffo	#52 Libous	#61 Ranzanhofer	#35 Stewart-
#38 Carlucci	#60 Grizanti	#45 Little	#48 Ritchie	Cousins
#50 DeFrancisco	#06 Hanlon	#05 Martellano	#33 Rivera	#45 Valesky
#32 Diaz	#16 Hassell-	#07 Martine	#56 Robach	#57 Young
#17 Dilan	Thompson	#62 Maxiarz	#41 Galand	#03 Zeldin
#29 Duane	#10 Huntley	#43 McDonald	#19 Sampson	#27
#31 Espaillet	#04 Johnson	#18 Montgomery	#23 Savino	

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

EDUCLA

(Relates to pre and post test
reporting requirements, test site
registration and sign in, and estab-
lishes crimes related to educational
testing fraud)

Ed L. educational testing fraud

AN ACT

to amend the education law, in
relation to pre and post test
reporting requirements and test site
registration and sign in; and to
amend the penal law, in relation to
establishing the crimes forgery of
an educational test, criminal facil-
itation of educational testing
fraud, and scheme to defraud educa-
tional testing

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the multi-endorsement of this proposal:

#049 Abbate	#107 Crouch	#095 Jaffee	#032 Millman	#012 Saladino
#092 Abiananti	#14 Curran	#057 Jeffries	#015 Montesano	#113 Sayward
#105 Amadore	#053 Cusick	#135 Johns	#132 McRelie	#029 Scarborough
#084 Arroyo	#045 Cymbrowitz	#112 Jordan	#039 Moya	#016 Schiesel
#015 Aubry	#034 DenDekker	#099 Katz	#003 Murray	#140 Schiminger
#124 Barclay	#081 Dinowitz	#074 Kavanagh	#037 Nolan	#064 Silver
#040 Barron	#114 Duprey	#065 Kellner	#128 Oaks	#027 Sismanowitz
#082 Benedetto	#054 Englebright	#129 Kohn	#049 O'Donnell	#036 Simotes
#122 Blankenbush	#054 Espinal	#025 Lannonan	#051 Ortiz	#146 Swardz
#055 Boyland	#071 Farrell	#091 Latimer	#136 Palmesano	#078 Stevenson
#008 Boyle	#123 Pinch	#013 Lavine	#088 Paulin	#011 Sweeney
#026 Braunstein	#007 Fitzpatrick	#050 Lentol	#141 Peoples-	#110 Tediaco
#044 Brennan	#137 Friend	#125 Lifton	Stokes	#115 Tenny
#116 Brindisi	#143 Gabryszak	#072 Linares	#058 Perry	#002 Thiele
#131 Bronson	#090 Galef	#127 Lopez, P.	#087 Pretlow	#061 Titone
#046 Brook-Kearny	#133 Gantt	#053 Lopez, V.	#073 Quart	#031 Titus
#147 Burling	#077 Gibson	#001 Losquadro	#021 Ra	#062 Tobacco
#117 Butler	#149 Giglio	#126 Lupardo	#097 Rabbitt	#148 Walter
#101 Cahill	#056 Glick	#111 Magee	#009 Reis	#041 Weinstein
#096 Calhoun	#023 Goldfeder	#120 Magnarelli	#006 Ramos	#020 Weisenberg
#043 Camara	#150 Goodell	#059 Maisel	#134 Rellich	#024 Weprin
#106 Canestrari	#075 Gottfried	#060 Malliotakis	#109 Reilly	#070 Wright
#089 Castelli	#005 Graf	#030 Markey	#178 Rivera, J.	#094 Zabrowski
#086 Castro	#098 Gunther	#019 McDonough	#080 Rivera, N.	#093
#138 Ceretto	#130 Hanno	#104 McEweny	#076 Rivera, P.	#100
#033 Clark	#139 Hawley	#017 McKevitt	#119 Roberts	#103
#047 Colton	#093 Heastie	#108 McLaughlin	#056 Robinson	#145
#010 Conte	#020 Hevesi	#022 Meng	#068 Rodriguez	
#032 Cook	#048 Hikind	#121 Miller, D.	#067 Rosenthal	
#142 Corwin	#018 Hooper	#102 Miller, J.	#118 Russell	
#085 Crespo	#042 Jacobs	#038 Miller, M.	#144 Ryan	

1) Single House Bill (introduced and printed separately in either or both
houses) Uni-Bill (introduced simultaneously in both houses and printed as one
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed
copies of bill and 4 copies of memorandum in support (single House); or 4 signed
copies of bill and 8 copies of memorandum in support (uni-bill).

01/19/12

2

14110-01-2

The People of the State of New
York, represented in Senate and
Assembly, do enact as follows:

1 Section 1. Section 340 of the education law is amended by adding four
2 new subdivisions 10, 11, 12 and 13 to read as follows:

3 10. "Home high school" means the high school at which a test subject
4 is a matriculated student.

5 11. "Testing site" means any location where a standardized test is
6 administered to a test subject.

7 12. "Proctor" means a person present at a testing site who signs in
8 test subjects who are registered to take the test at that site and who
9 oversees the administration of a standardized test.

10 13. "Acceptable photo identification" means a school identification
11 card, a school identification form prepared by the home high school of a
12 test subject, a state-issued driver's license, a state-issued non-
13 driver's license, a passport or a government issued identification card.

14 § 2. Section 344 of the education law is amended by adding a new clos-
15 ing paragraph to read as follows:

16 Nothing in this section shall be construed to prevent the test agency
17 from reporting the cancellation of a test pursuant to subdivision
18 eight-a of section three hundred forty-four-b of this article.

19 § 3. Paragraph (e) of subdivision 3 and subdivision 8 of section 344-b
20 of the education law, as added by chapter 845 of the laws of 1992, are
21 amended and two new subdivisions 8-a and 8-b are added to read as
22 follows:

23 (e) the potential consequences which may result from the investi-
24 gation, such as withholding or invalidating the test score; or reporting
25 the cancellation of such score to the test subject's home high school
26 and any colleges or universities who were designated to receive the
27 score report pursuant to subdivision eight-a of this section.

1 8. The test agency shall not release confidential information to any
2 authorized test score recipients regarding a test subject under pending
3 investigation, unless authorized to do so by the test subject or author-
4 ized to do so pursuant to subdivision eight-a of this section.

5 8-a. When a test agency determines that substantial evidence exists to
6 support a conclusion that the test subject committed forgery of an
7 educational test as defined in section 170.80 of the penal law, the test
8 agency shall cancel such test subject's score, report such cancellation
9 to the test subject's home high school and to any colleges or universi-
10 ties who have received or are authorized to receive such test subject's
11 score report. The test agency shall then inform the proper law enforce-
12 ment agency. If the court later determines that the test subject was not
13 guilty of forgery of an educational test as defined in section 170.80 of
14 the penal law, the test agency shall notify the test subject's home high
15 school and any colleges or universities who had received or were author-
16 ized to receive the test subject's score report of the reversal; and the
17 test subject's original score shall be re-authenticated.

18 8-b. Any test subject who is found guilty of forgery of an educational
19 test, in addition to any penalties under the penal law, shall not be
20 authorized to sit for another standardized test within two years from
21 the date of conviction.

22 § 4. The education law is amended by adding a new section 344-d to
23 read as follows:

24 § 344-d. Pre and post test reporting requirements and test site regis-
25 tration and sign in requirements. 1. This section shall only apply to
26 post secondary school admission exams such as the Preliminary Scholastic
27 Aptitude Test (PSAT), Scholastic Aptitude Test (SAT) or the ACT Assess-
28 ment (ACT).

1 2. (a) Upon registering to sit for the PSAT, SAT or ACT a test subject
2 shall report to his or her home high school the test site at which he or
3 she is registered to take the exam.

4 (b) Upon completion of the exam and receipt of his or her score, the
5 test subject must report such score to his or her home high school.

6 3. In order for a test subject to sit for a PSAT, SAT or ACT the test
7 subject, upon sign in, must provide to the proctor at the test site the
8 following:

9 (a) If a test subject is registered to take and is taking the test at
10 his or her home high school, the test subject must provide one form of
11 acceptable photo identification.

12 (b) If the test subject is registered to take and is taking the test
13 at a test site that is not the test subject's home high school, then the
14 test subject must provide either:

15 (i) two forms of acceptable photo identification; or

16 (ii) one form of photo identification and an affirmation prepared by
17 authorized school personnel from the test subject's home high school
18 verifying such test subjects identification.

19 (c) If a test subject walks into a test site on the day of the test to
20 sit for a test he or she is not currently registered to take at such
21 site, such test subject must provide two forms of photo identification
22 and must report to his or her home high school after having sat for the
23 exam, the site at which he or she took the exam and the resulting test
24 score once received by the test subject.

25 4. The affirmation required by subparagraph (ii) of paragraph (b) of
26 subdivision three of this section shall be prepared in advance of the
27 day of the test and shall be sent by the test subject's home high school
28 to the test site where such test subject is registered to sit for the

1 test. The affirmation shall also contain a copy of the test subject's
2 photo identification along with the signed affirmation verifying the
3 test subject's identity. To be authorized to sit for the exam, the test
4 subject must present at the test site the same photo identification that
5 was copied and included in the affirmation.

6 § 5. The penal law is amended by adding a new section 170.80 to read
7 as follows:

8 § 170.80 Forgery of an educational test.

9 A person is guilty of forgery of an educational test when, with intent
10 to defraud, deceive or injure another, he or she falsely makes,
11 completes or alters an application, registration or examination of a
12 standardized test as defined by section three hundred forty of the
13 education law, or solicits, requests, commands, importunes or inten-
14 tionally aids another person to engage in such conduct.

15 Forgery of an educational test is a class A misdemeanor.

16 § 6. Section 190.25 of the penal law is amended by adding a new subdi-
17 vision 5 to read as follows:

18 5. Impersonates another registered to take a standardized test as
19 defined by section three hundred forty of the education law to take such
20 educational test, or solicits, requests, commands, importunes or inten-
21 tionally aids another person to engage in such conduct.

22 § 7. The penal law is amended by adding a new section 170.85 to read
23 as follows:

24 § 170.85 Criminal facilitation of educational testing fraud.

25 A person is guilty of criminal facilitation of educational testing
26 fraud, if, being twenty-one years of age or older, he or she provides a
27 benefit to another to entice the other to commit the crime of forgery of
28 an educational test pursuant to section 170.80 of this article, or the

1 crime of criminal impersonation in the second degree pursuant to subdi-
2 vision five of section 190.25 of this title.

3 Criminal facilitation of educational testing fraud is a class E felo-
4 ny.

5 § 8. The penal law is amended by adding a new section 190.71 to read
6 as follows:

7 § 190.71 Scheme to defraud educational testing.

8 A person is guilty of scheme to defraud educational testing when he or
9 she commits the crime of forgery of an educational test pursuant to
10 section 170.80 of this title on three or more occasions; or commits the
11 crime of criminal impersonation in the second degree pursuant to subdi-
12 vision five of section 190.25 of this article, impersonating more than
13 two other persons; or commits a combination of these crimes involving
14 three or more different incidents or three or more other identities.

15 Scheme to defraud educational testing is a class E felony.

16 § 9. This act shall take effect on the first of November next succeed-
17 ing the date on which it shall have become a law.

NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI, Sec. 1

Memo on original bill
 Memo on amended bill

SENATE BILL #: S.

ASSEMBLY BILL #:

SENATE SPONSOR(S): LaValle

ASSEMBLY SPONSOR(S):

TITLE:

AN Act to amend the education law, in relation to pre and post test reporting requirements and test site registration and sign-in; and to amend the penal law, in relation to establishing the crimes of forgery of an education test, criminal facilitation of educational testing fraud and scheme to defraud educational testing.

PURPOSE:

To amend the education law to authorize testing agencies to cancel standardized test scores upon a determination that a test subject cheated on the exam and to report such information to the test subject's home high school and to certain colleges and universities; to require test subjects to provide certain forms of identification in order to sit for a standardize test and to amend the penal law to criminalize certain behavior in relation to cheating on an exam.

SUMMARY OF PROVISIONS:

Section 1: Amends section 340 of the education law to add four new definitions to Article 7A.

Section 2: Amends section 344 of the education law to clarify that test agencies can report the cancellation of a test pursuant to subdivision eight-a of section 344-b of the education law.

Section 3: Amends section 344-b of the education law and adds two new sections, 8-a and 8-b in relation to test score cancellations upon a finding that a test subject committed forgery of an educational test as defined in the penal law.

Section 4: Amends the education law to add a new section 344-d in relation to pre and post test reporting requirements and test site registration and sign-in requirements.

Section 5: Amends the penal law to create the crime of forgery of an education test.

Section 6: Amends the penal law to add that a person would be guilty of criminal impersonation in the second degree if he/she impersonates another registered to take a standardized tests or solicits, commands, importunes or intentionally aids another person to engage in such conduct.

Section 7: Amends the penal law to create the crime of criminal facilitation of educational testing fraud.

Section 8: Amends the penal law to create the crime of scheme to defraud educational testing.

Section 9: Sets forth the effective date.

JUSTIFICATION:

This bill is necessary to create deterrents from cheating on post secondary standardized tests, to improve identification verification of those who take such exams in this state and to criminalize behaviors that rise to the level of fraud and criminal impersonation in relation to taking a standardized test.

In recent months, an SAT cheating scandal was discovered on Long Island. It was found that high school students were paying large sums of money to college students who falsified identifications and took the SATs for them. This scandal included up to 50 students, some of who were middle men who connected the impersonating test takers with the high school students who had the ability to pay up to \$3,600 for another to take the exam for them.

The Senate Standing Committee on Higher Education held hearings on this issue in October of 2011. It was discovered that lax test site identification procedures and no test taker reporting requirements; along with test taker's due process rights under the education law, allowed such egregious conduct to occur. NYS law specifically delineates what a testing agency is allowed to do upon the discovery of cheating. There is nothing in relation to the regulation of standardized tests that would be a deterrent from cheating and there are no specific criminal penalties with regard to educational fraud.

This bill would amend the sections of the education law that prevent testing agencies from reporting to students' home high schools and the colleges and universities to which such students applied if a test score is cancelled due to the discovery that such student cheated. In addition, this bill creates reporting requirements and criminal penalties. Such deterrents will go a long way to prevent cheating on standardized tests in the future.

With the increasing number of college applicants fighting for limited spots, getting into the college of your choice has become more and more competitive. Therefore, there has been increased importance placed a student's SAT or ACT score. When a student cheats, such behavior has the potential to displace honest, hard working students from the most competitive colleges. Students who didn't earn and don't deserve such coveted placements should not have this unfair advantage.

LEGISLATIVE HISTORY:

New legislation.

FISCAL IMPLICATIONS:

None to the State.

EFFECTIVE DATE:

This act shall take effect on the first November next succeeding the date on which it shall have become law.