Terms and Conditions for Testing Staff

Employment Status
All Test supervisors, substitute test supervisors, room supervisors, proctors (all test center staff members) and other suppliers who provide services to ACT at test centers (e.g., custodians, security personnel) are independent contractors, not employees of ACT. The Pension Protection Act of 2006, Section 864, allows ACT to treat all test center staff as independent contractors. Thus, the wages of test center staff are not subject to income tax withholding or Social Security (FICA) deductions. Further, test center staff are not covered under ACT’s workers’ compensation insurance or other employee benefit plans. If a test center staff member (contractor) is paid less than $600 in a calendar year, ACT will not send the test center staff member a tax form or report the payments to any government agencies (IRS, Social Security, or states). If a staff member is paid $600 or more in a calendar year, ACT will send the test center staff member a 1099-Miscellaneous income tax form showing the payments made in the calendar year. ACT will also report the payments to any applicable government agencies (IRS, etc.).

Each test center staff member certifies to ACT that the test center staff member is permitted by all applicable laws, regulations, ordinances, rules and policies to which the test center staff member is subject to perform all of the work the test center staff member has and will undertake for ACT and to receive the related compensation from ACT.

Each test center staff member also confirms to the best of the staff member’s knowledge, that the staff member is not listed on the U.S. Office of Foreign Assets Control List of Specially Designated Nationals and Blocked Persons and is not otherwise prohibited by U.S. law from performing any services under this Agreement. Each test center staff member agrees to comply with all laws and regulations applicable to the services provided under this Agreement.

Agreement to Comply with ACT Policies, Procedures and Security Protocols
All Test supervisors, substitute test supervisors, room supervisors and proctors (all test center staff members) must agree to comply with all policies and procedures provided at any time by ACT for the testing program to which the test center staff members are assigned – particularly those policies described in the applicable Supervisor’s Manual. Test administration activities are an ACT function, and not a function of the school or facility housing the test site. Test center staff members act as independent contractors on behalf of ACT on test day and in all matters regarding administering the tests at the assigned test center. Test center staff who are also employed by the host facility (e.g., counselors and teachers) need to be particularly sensitive to this distinction.

Whenever an ACT directive, policy or procedure conflicts with the policy of the host facility, the ACT directive, policy or procedure must prevail for all test administration activities.

Confidentiality
Test center staff members have access to information about examinees and test procedures that is confidential. Test center staff members agree not to share information about examinees and/or test procedures with anyone outside of ACT, including, but not limited to, the administrators and staff, teachers, counselors, or clerical staff at the testing site or at the permanent place of employment for the test center staff member. Questions from anyone other than ACT must be referred directly to ACT. Information about examinees and examinee actions on test day is confidential and may not be provided in any form to anyone outside of ACT without the express prior written consent of ACT—including, but not limited to, an examinee’s name, registration status, attendance, test accommodation, test room or seat assignment, behavior, materials, documents, or anything that might identify an examinee or their actions (even if the examinee is a student at the school that is the permanent employer of the test center staff member). To ensure confidentiality, test
center staff members may not copy documents containing individually identifiable information, or use such information for any purpose other than administering the tests. If test center staff members post rosters to assist with room assignments, everything but student names should be covered. Alternatively, test center staff members can print a “Names Only” roster from Rosters-on-the-Web (if available for the program in question). Test administration information is confidential and cannot be provided in any form to anyone outside of ACT without the prior written consent of ACT. This includes test day activities, test administration procedures, Supervisor’s Manuals, or test date documents (e.g., Seating Diagrams, Rosters, etc.).

Investigations
As set forth in the appropriate Supervisor’s Manual, test center staff members have an obligation to report testing irregularities to ACT. In cases of suspected or documented irregularities, all test center staff members are obligated to cooperate fully with ACT in subsequent investigations and respond to ACT’s requests for information in a timely manner. In cases where an examinee disputes an ACT decision or communication regarding the test administration, it is not uncommon for the examinee or his or her representative to contact test center staff members directly requesting information. In such cases, test center staff members should not become involved in the situation. Specifically, test center staff members may not provide test administration information to the examinee, his or her representatives (including parents or legal counsel), an arbitration agency, or to anyone else (see also Confidentiality) without prior written consent from ACT. Any such requests must be directed to ACT Test Administration.

Supervisor’s Manual
Every test center staff member is expected to read and comply with the applicable Supervisor’s Manual, which ACT provides to communicate its expectations. The Supervisor’s Manual is proprietary information and is copyrighted by ACT. It is to be used only for the purpose of administering the applicable test and is not to be copied or shared for any other purpose. Each test center staff member must be provided with a complete copy of the Supervisor’s Manual before the training session required by the Supervisor’s Manual. It is especially important that room supervisors read the Manual and understand all policies, procedures, and directions. In addition, ACT may communicate other applicable directives, policies and procedures through alternate publications, documents, notices, e-mails or other means. All applicable directives, policies and procedures must be followed for the assigned testing program.

Test Security Requirements
ACT has developed security procedures to ensure the validity of the administration, the identification of examinees, the security of test materials and the integrity of test scores. All test center staff members must understand and follow the procedures set forth in the applicable Supervisor’s Manual, including but not limited to the Test Security procedures.

Authorized Access
Test center staff members’ access to materials must be limited to only those activities necessary to prepare for test day, the test administration itself, and counting and packing materials for return to ACT. Access to test materials prior to test day is restricted to the test supervisor and substitute test supervisor. A designated test center staff member may assist with materials if the test supervisor or substitute test supervisor is present and if that individual does not have a relative or ward testing on test day. Test center staff members agree not to permit unauthorized personnel to access the materials. Examinees and anyone who may take the tests within the next 12 months are not permitted access to the materials. Test materials must not be transferred to any other test center without prior written authorization from ACT. Tests administered using unauthorized materials transferred from another test center will not be scored.

Security of Test Materials
Secure test materials include test booklets, used answer documents, alternate formats of the test, and other materials as described in the appropriate Supervisor’s Manual. The test supervisor is responsible for the security of all test materials from the time the carrier delivers them to the time they are in the return carrier’s possession. Protect the materials from damage, theft, or loss; and from conditions that could allow prior access to the tests. Test booklets are copyrighted and cannot be photocopied or used for any other purpose. Under no circumstances is a test booklet seal to be broken by anyone other than the examinee on test day. Test center staff members and examinees are prohibited from disclosing test questions, essay topics, or response choices to anyone.

Scores earned by examinees who may have had advance access to test content will be cancelled and will not be reported to examinees or to educational institutions.

All test center staff members must agree and understand that, among other things, and in addition to the policies in the appropriate Supervisor’s Manual, and other policies that may be communicated, the following actions are prohibited:

- Obtaining a test booklet or test items prior to the test;
- Photocopying, keeping or distributing a copy of the test or test items;
- Taking notes about test questions or any paraphrase of test questions;
- Aiding or assisting an examinee with a response or answer to any test item;
- Rephrasing test questions;
- Creating an answer key or “crib sheet” of answers to test questions;
- Editing or changing examinee answers after completion of the test, whether with or without the examinee’s permission;
- Providing unapproved test accommodations to an examinee;
- Failing to read test administration scripts verbatim as required by the appropriate Supervisor’s Manual or other policy and procedure documents;
- Leaving examinees in the test room unsupervised at any time after test materials have been distributed;
- Leaving test materials in an unsecured place or unattended;
- Failing to properly report and document incidents of prohibited behavior involving examinees, staff or others;
- Failing to return and account for all testing materials as soon as the testing session has terminated;
- Allowing unauthorized observers or media access to the testing area or test materials.

Failure to comply with ACT’s policies and procedures by any testing staff member may result in compromises in the testing process or invalid scores.

Testing staff members agree to immediately report to ACT any concerns they have regarding failure to comply with ACT’s policies and procedures, compromises in the testing process, or score validity.

**Right to Terminate**

ACT reserves the right to terminate its relationship with any test center or testing staff member without advance notice if ACT determines, in its sole discretion and for any reason, that termination is appropriate. ACT further reserves the right to prohibit a testing staff member from participating in any capacity in the testing process for any ACT–owned assessment.