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Teacher and Administration are on Opposite Sides when Boundaries are Tested over Access to Exams.

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In September of 2009, The Supreme Court of Ohio ruled that student's examinations from public schools are not public records. *See State ex rel. Perrea v. Cincinnati Public School 2009-Ohio-4762.* The specific examinations referred to in this case are administered to all ninth graders who attend Cincinnati Public Schools.

This case began in 2007, when a teacher at Cincinnati Hughes High School began filing requests with the Cincinnati Public Schools for copies of the semester standardized tests. These semester exams are administered to every student attending a CPS school (Cincinnati Public Schools) at the end of each semester in order to calculate each student's academic achievement. The teacher sought copies of the actual exam questions and how each exam was created, administered, and graded. He intended to examine and evaluate the tests for fairness, accuracy, and validity. CPS denied the teacher's requests, claiming that the documents were exempt from disclosure. After his access was denied, the teacher filed an original action in the Supreme Court of Ohio, asking the court to issue a writ of mandamus and allow him access to the documents as public records.

The teacher's demands were based upon his inclination that the tests, which accounted for 25 percent of each student's grade, were poorly designed, and did not accurately portray any student's level of learning. He wanted to see district wide tests that had already been administered, not tests created and administered by individual teachers.

CPS argued that if the tests are considered "public records", all students would have huge economic incentives to get test copies before they are administered. CPS was concerned that students will be able to ace the tests using the state's public records law.

The teacher referenced the Supreme Court's 1998 ruling that Statewide 12th grade proficiency and vocational competency tests were found to be public records. As a result, students already have access to certain test questions through the internet and school computers. Additionally, he claimed that because many students and teachers had already seen test questions, CPS had forfeited the claim that tests are trade secrets. The Ohio Supreme Court found that although the tests were public record they are, in fact, protected as trade secrets

The court reasoned that if the tests were to be made public, their value would be minimal. It would be impossible to understand the effectiveness of a student's education through these tests if they were available to the public. Furthermore, standardized tests have become benchmarks for student's aptitude. The scores from standardized tests have come to represent not just what students have learned, know, and understand, but also their ability to learn. Allowing one standardized test to become public record would allow for a Pandora's Box effect. If that were to happen, it could become highly detrimental to students. Would such a series of events ultimately allow for student scores to become public record? If so the effects could be very harmful to the opportunities and futures of students everywhere.

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