

James F. Hertzog, Chief
Division of Testing and Evaluation
PA Department of Education(PDE)
333 Market Street
Harrisburg, PA 17126-0333

Sen. John Heinz: Please be most aware of the
lying going on in the PDE, and
Please vote against funding for
NAEP and IAEP-II.

Mrs. Marcy Holteen Thank you.
P.O. Box
Nuremberg, PA 18241-0215 Mrs. H.
March 14th, 1991

Dear Mr. Hertzog,

In my letter of January 26, 1991 to you in response to your January 24, 1991 letter to me, I ended with, "I will expect to hear from both you and Secretary Carroll in the near future."

I have heard from Secretary Carroll by letter, February 19.

I have not heard from you.

My letter pertained to the position held by the PDE as expressed by you, and, the position held by the United States Department of Education, Family Policy and Compliance Office, as expressed by Thomas E. Anfinson in an October 24, 1990 letter concerning the relation of the Anita Hoge complaint against Educational Quality Assessment(EQA) violations to the federal Protection of Pupil Rights Act (PPRA) regulations.

The USDE position and the PDE position are in stark contradiction to each other.

Anfinson had gone to great effort in his letter to confirm the steps taken by the USDE to comply with the federal PPRA regulations in resolving the complaint brought under the PPRA against EQA violations by Mrs. Anita Hoge in 1986. The EQA was recognized by the USDE as a federally funded program which brought the complaint under the jurisdiction of federal law to be resolved.

Anfinson named the letters sent by the USDE in which specific areas of the federal PPRA regulations were being complied with in requiring the PDE to adopt the BEC 8-90 "...to prevent future violations." (Rooker's 4/30/90 letter and Shiffrin's 4/16/90 letter).

The BEC 8-90 lists prohibitions of type of test(psychological/attitudinal) and in testing content which the EQA was found guilty of by federal investigation.

The adoption of BEC 8-90 by the PDE essentially suspended the use of such as EQA until some other means of assessment was found to replace it. And, that did happen in late 1988; the Pennsylvania Assessment System(PAS) was devised, incorporating EQA (and, TELLS) into it. (Donna Wall Basic Education Directive, Fall 1988)

These actions by the USDE and PDE did, indeed, imply that violations of federal law by EQA were found through the USDE investigation of the Hoge complaint, necessitating the PDE to adopt BEC 8-90.

Yet, you, on the other hand, chose to completely contradict the findings, results, and actions of the USDE by stating in your letter to me, "The Department(PDE) holds that (a) EQA was not a federally

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funded program and was not related to the federal PPRA regulations and (b) no admission of wrongdoing was implied by the issuance of BEC 8-90 or the suspension of the EQA program."

How can you so blatantly contradict the USDE?

Ernest Helling, PDE Chief Counsel, even wrote a letter, 4/5/90, to Shiffrin of the USDE acknowledging PDE's compliance with PPRA regulations in agreeing to adopt the BEC 8-90, and, even naming the section of the federal PPRA regulations being complied with in order to resolve the Hoge complaint against EQA!

How can you so blatantly contradict the PDE's own Chief Counsel? I think it's time that Chief Counsel Helling knows of the predicament you have placed both him and the PDE in, as well as yourself, Shiffrin and Anfinson. And, does Secretary Carroll know the whole story?

I ask that you write a letter of explanation of the contradictions you have fomented, to me, as soon as you can.

I await your response.

Cordially,

Ms. Mary Holten

Enclosures: Noted

cc: Helling, Carroll, Senators, Congressmen, and, Hoge