

## WPS Test Security Position Statement

Manson Western, Inc. (“WPS”) is the owner and publisher of various copyrighted psychological, neuropsychological, behavioral, and educational assessment instruments. WPS is aware that these testing instruments may be used to evaluate individuals in relation to litigation or other legal proceedings. As detailed herein, maintaining the security of the testing instruments is essential, and disclosure of test-related items to non-qualified individuals or to the public compromises the future utility and validity of such tests. WPS therefore objects to the general release or production of test-related materials.

WPS’s testing instruments—including all questions, answers, manuals, forms, tables, materials, and other items related to the instruments, whether digital, printed, or consisting of any other type of media—are proprietary, confidential, and restricted only to qualified individuals. The instruments are used only by qualified practitioners who are obligated to protect the integrity of the assessments by maintaining the confidentiality of the test-related materials. If a non-qualified individual were to obtain prior knowledge of test item content and procedures, the validity and utility of the measure could be compromised, which would defeat the intended purpose of the test.

WPS understands the importance of the production of relevant information in legal and other proceedings, but it is crucial for the continued viability of testing instruments that those proceedings do not compromise the integrity of those instruments. The lack of foreknowledge by the examinee (i.e., the individual evaluated by the assessment) of testing procedures and content of the tests they are being given is often **crucial** to a valid and useful examination. These tests are used in numerous settings in the service of providing help or benefits to individuals in need and/or the accurate evaluation of such individuals. Dissemination of the testing materials compromises the validity of future test results and, thus, will have a harmful impact on society.

For this exact reason, many jurisdictions, including California, have adopted laws that prohibit the dissemination or testing materials. Section 1396.3 of Title 16 of the California Code of Regulations, entitled “Test Security,” provides:

A psychologist shall not reproduce or describe in public or in publications subject to general public distribution any psychological tests or other assessment devices, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the techniques; and shall limit access to such tests or devices to persons with professional interests who will safeguard their use.

WPS has invested substantial sums into developing and norming our assessment instruments. Revealing test-related materials to the public would compromise the value of the instruments

and have a deleterious effect on future investments. Therefore, WPS works to maintain the security (thereby preserving the validity) of such instruments. Sales of the instruments are only made to qualified persons who are required under legal and ethical principles of their professions to maintain their integrity. Employees and external consultants are under non-disclosure obligations. A chilling effect would likely occur if test security were compromised as the likelihood of future investment in these important instruments will decrease.

We are aware that some practitioners, if required to produce printed test materials during a legal proceeding, have taken steps to mask critical information regarding the testing instrument while providing sufficient information to evaluate the validity of the individual assessment. We support these masking efforts by qualified individuals who are obligated to protect the integrity of the instrument.

However, WPS objects to any request that requires the production of testing materials to any person other than an individual properly licensed, trained, and credentialed in the use of such instruments, who is subject to professional and ethical requirements regarding confidentiality and appropriate test use. The dissemination of test-related materials would not only expose WPS intellectual property to inappropriate disclosure but also may be misunderstood or misinterpreted by individuals who do not have the requisite professional experience and training.

In the event that a disclosure of any testing materials—or any portion thereof (such as quotations of any testing material)—is made during legal or other proceedings, either inadvertently or otherwise, WPS requests that the court or other tribunal seal the disclosure and exclude it from the official record of the proceedings. In the event that a court or other tribunal determines that the disclosure of test-related materials, or any portion thereof, is absolutely critical, WPS requests an order that only qualified professionals have access to the materials and that they be held under strict confidentiality obligations.

Maintaining the security and integrity of testing materials is crucial to protect WPS' intellectual property and the validity of the instruments. The prospect of the materials being disseminated among non-professionals threatens the future security and efficacy of these important clinical instruments.



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