

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(a) and 151 (14 **Del.C.** §§122(a) & 151)
14 **DE Admin. Code** 101

FINAL

ORDER

101 State Assessment System

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §122(a) and §151, the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 101 State Assessment System. This regulation is being amended to align with the current assessment system.

The Department proposed amendments to this regulation April 1, 2024. Two comments were received which were not pertinent to the proposed amendments but were general questions regarding the state assessment system. The Department responded directly to those entities. A third comment was received which opposed the amendments made in 10.2.2.3 removing a 20-working day timeline related to investigations into potential test security incidents. The Department investigates testing violations pursuant to 14 **Del.C.** §1218 (a) (3). There are no timelines for how long DOE has to investigate alleged misconduct under this statute or any other type of investigation. The Department believes each investigation's timeline should be case-specific and not rushed due to a specific timeline. The Department did amend section 10.2.2.4 to further clarify the investigations process. The Department did change the word "will" in 10.2.2.2 to a "may," as there may be times when the Office of Assessments determines that an incident may not rise to the level of an actual investigation. Additionally, the Department realized that the word "not" had been inadvertently omitted from subsection 12.4.3.2 in the current regulation and in the version proposed April 1, 2024. The Department has included the word "not" in this proposed amendment to ensure accuracy in the participation rate calculation for school and district accountability.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on June 1, 2024. The Department of Education received the following written comments concerning the proposed amendments:

Issue: A request to add wording in subsections 10.2.2.3 and 10.2.2.5 to read that the assigned investigator will "investigate with due diligence towards a timely resolution."

Response: The Department agrees with this change and language in subsections 10.2.2.3 and 10.2.2.5 has been added that reads: "The assigned investigator will investigate with due diligence towards timely resolution."

Issue: A request to change wording in subsections 10.2.2.4 from "prosecutions" to "licensure actions."

Response: The Department agrees with this change and language in subsection 10.2.2.4 has been changed from "prosecutions" to "licensure actions."

The Department did edit the capitalization in the definition of "English language proficiency assessment" to comply with the *Delaware Administrative Code Style Manual*.

II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

III. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 101 State Assessment System to align with the current assessment system.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 101 State Assessment System. Therefore, pursuant to 14 **Del.C.** §151, 14 **DE Admin. Code** 101 State Assessment System attached

hereto as *Exhibit "A"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 101 State Assessment System hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section VI. below.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 101 State Assessment System amended hereby shall be in the form attached hereto as *Exhibit "A"*, and said regulation shall be cited as 14 **DE Admin. Code** 101 State Assessment System in the *Administrative Code of Regulations* for the Department of Education.

VI. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §151 on July 18, 2024. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 18th day of July 2024.

Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 18th day of July 2024

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rajalakshmi Lodhavia

/s/ Deborah Stevens, Vice President

/s/ Provey Powell, Jr.

/s/ Meredith L. Griffin, Jr.

(Absent) Harvey Kenton, Jr.

***Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

101 State Assessment System

1.0 Purpose and ~~Definition~~ Definitions

1.1 ~~Purpose:~~ The purpose of this regulation is to outline the procedures, ~~criteria~~ criteria, and responsibilities related to the state assessment system required pursuant to 14 **Del.C.** §151.

1.2 ~~Definitions:~~ Definitions

The following words and terms, when used in this regulation, shall have the following meaning:

~~Alternate Achievement Standards~~ achievement standards means targets that define how well and how much students should know and do in the content to be considered proficient on the alternate assessment.

~~Alternate Assessment~~ assessment means an assessment which is based on Alternate Achievement Standards which is designed for students with the most significant cognitive disabilities who cannot participate in the General Assessment even with appropriate accommodations. Per ~~§4-1 subsection 4.1~~, there are ~~two~~ 2 types of ~~Alternate Assessment~~ alternate assessment in Delaware – Selected Response Alternate Assessment and Portfolio Alternate Assessment.

~~College Readiness Assessment~~ readiness assessment means the statewide assessment used to measure student achievement of content standards and skills necessary to be successful in post-secondary education (~~e.g., Scholastic Aptitude Test, commonly known as the SAT~~).

~~Delaware System of Student Assessment (DeSSA)~~ or DeSSA means the statewide system of assessments designed to measure student achievement of state content standards, including, but not limited to, general assessments measuring student achievement based on grade-level academic standards, alternate assessments based on alternate achievement standards for students with the most significant cognitive disabilities, a college readiness assessment, an assessment for English Language Learners (~~ELL~~), a norm referenced assessment; or any assessment that may be administered or required as determined by the Department of Education for use in Delaware public schools.

~~Department~~ means the Delaware Department of Education.

~~District Test Coordinator (DTC)~~ means ~~the educator(s)~~ an educator assigned by the district or charter school to be the primary contact for DeSSA information. The ~~DTC~~ District Test Coordinator is responsible for coordinating the administration of state assessments within the district or charter. The ~~DTC~~ District Test

Coordinator is also required to complete training and be knowledgeable of proper test administration and test security, and ensure that all personnel assigned to testing are adequately trained in proper test administration and test security.

~~“End of Course (EOC) Assessment”~~ means a statewide general assessment administered to high school students at the completion of select high school courses to measure student achievement of the content standards for the content area.

~~“English Language Proficiency Assessment language proficiency assessment”~~ means an assessment that is intended to measure a non-native English speaker’s English proficiency in reading, writing, speaking, and listening. The English [~~Language Proficiency Alternate Assessment language proficiency alternate assessment~~] is a similar assessment for students with significant cognitive disabilities.

~~“Extended Standards standards”~~ means statements describing concepts and skills aligned to the content standards for English Language Arts/Literacy Arts and Literacy, Mathematics, ~~Science Science~~, and Social Studies.

~~“General Assessment assessment”~~ means the statewide summative assessment used to measure student achievement of the content standards for English Language Arts/Literacy Arts and Literacy, Mathematics, ~~Science Science~~, and Social Studies. This assessment does not include students who participate in an alternate assessment.

~~“Invalidation”~~ means a response to an event or situation that occurs during the administration of the an assessment which may result in a statistically unreliable or invalid score report for a student. ~~Invalidation~~ may occur as a result of either: intentional student conduct, including but not limited to cheating and disruptive behavior; or unforeseen and uncontrollable events, including but not limited to onset of illness.

~~“Local Educational Agency (LEA)” education agency~~ or “~~LEA~~” means a public board of education or other public authority legally constituted within Delaware for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a school district, or for a combination of school districts. The term includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

~~“National Assessment for Education Progress (NAEP)”~~ means a norm referenced assessment used statewide in selected schools and grades to measure academic achievement in various content areas including, but not limited to, English Language Arts, ~~Mathematics Arts and Literacy, Mathematics~~, and Science.

~~“Portfolio Alternate Assessment alternate assessment”~~ means a form of alternate assessment aligned to the extended standards in English Language Arts/Literacy Arts and Literacy, Mathematics, ~~Science Science~~, and Social Studies, in which evidence such as work samples, data sheets, photos or videos is gathered by the test administrator to document student achievement.

~~“School Test Coordinator (STC)”~~ means the educator assigned by the school to be the primary contact for DeSSA information at the school level. The ~~STC School Test Coordinator~~ is responsible for coordinating the administration of state assessments within the school. The ~~STC School Test Coordinator~~ is also required to complete training and be knowledgeable of proper test administration and test security, security and ensure that all personnel assigned to testing are adequately trained in proper test administration and test security.

~~“Selected Response Alternate Assessment response alternate assessment”~~ means a form of alternate assessment aligned to the extended standards in English Language Arts and Literacy, Mathematics, ~~Science Science~~, and Social Studies, in which the questions are presented to the ~~student student~~, and the student response is recorded by the test administrator to document student achievement.

10 DE Reg. 676 (10/01/06)

14 DE Reg. 1340 (06/01/11)

18 DE Reg. 556 (01/01/15)

2.0 Delaware System of Student Assessments (DeSSA)

2.1 Delaware System of Student Assessments (DeSSA) is the statewide system of assessments used to measure student achievement which ~~may include, but is not limited to,~~ includes the following:

2.1.1 General Assessments assessments for both English Language Arts (ELA)/Literacy and Literacy and Mathematics; and

2.1.2 General Assessments assessments for both Science and Social Studies; and

2.1.3 End-of-Course Assessments for selected high school courses; and

- 2.1.4 ~~2.1.3~~ Alternate Assessments assessments based on ~~Alternate Achievement Standards alternate achievement standards~~ for English Language Arts, Mathematics, and Science and Social Studies; and
- 2.1.5 ~~2.1.4~~ Other assessments such as, ~~but not limited to~~, an assessment for English Language Learners (ELLs), a norm referenced assessment, a college readiness assessment or any assessment that may be administered or required as determined by the Department.
- 2.2 All LEAs shall administer all applicable, required components of the DeSSA, including field test administrations.
- 2.2.1 Any student repeating a grade level shall take any components of DeSSA that are required for that given grade level.
- 2.2.2 ~~Any student who has skipped a grade level shall take any components of DeSSA that were missed (e.g., Science or Social Studies) as a result of the skip to the higher grade level, with the exception of those DeSSA components that would be administered at the higher grade level (e.g., ELA/Literacy or Mathematics).~~
- 2.3 The Department shall determine the dates upon which the DeSSA assessments shall be administered, and will advise the LEAs of those dates.

18 DE Reg. 556 (01/01/15)

3.0 General and End of Course Assessments

- 3.1 ~~The General Assessments assessments~~ shall be administered to to:
- 3.1.1 ~~all~~ All students in grades 3 through 8 and 11 in the areas of English Language Arts/Literacy Arts and Literacy and Mathematics;
- 3.1.2 ~~all students in grades 5, 8, 10 in Science; and all students in grades 4 and 7 in Social Studies; and high school students taking U.S. History (EOC).~~ All students in grades 5 and 8 in Science and students taking a high school Biology course; and
- 3.1.3 All students in grades 4 through 8 and 11 in Social Studies.
- 3.1.4 ~~3.2~~ All students in tested grades in need of designated supports and accommodations shall be tested according to the Department's Accessibility Guidelines for the Delaware System of Student Assessments (DeSSA), as the same DeSSA may from time to time be amended.

18 DE Reg. 556 (01/01/15)

4.0 Alternate Assessments

- 4.1 There are ~~two~~ 2 types of ~~Alternate Assessment alternate assessment~~ that shall be available ~~no later than the 2015-2016 school year to students in Delaware:~~ Selected Response Alternate Assessment selected response alternate assessment and Portfolio Alternate Assessment portfolio alternate assessment.
- 4.2 Annual written notice of ~~option(s),~~ assessment options in a format and timetable approved by the Department, shall be provided to parents of students with disabilities who may be eligible to participate in an alternate assessment and shall:
- 4.2.1 Describe the purpose of statewide alternate assessments;
- 4.2.2 Identify the available statewide assessment options including ~~General and Alternate Assessments general and alternate assessments~~; and
- 4.2.3 Identify the process by which a parent may initiate consideration of a student for ~~Portfolio Alternate Assessment portfolio alternate assessment.~~
- 4.3 ~~Selected Response Alternate Assessment Assessment.~~
- 4.3.1 Participation in the ~~Selected Response Alternate Assessment selected response alternate assessment~~ is an annual decision made by the Individualized Education Program (IEP) team through consideration of the criteria outlined in the *Alternate Assessment Participation Guidelines*.
- 4.4 Portfolio Alternate Assessment
- 4.4.1 A parent who believes that his or her child would not, despite accommodations, produce valid results on the ~~Selected Response Assessment selected response assessment~~ may submit a written request to the LEA, in a uniform format as determined by the Department, no later than October 15th of the school year for which the ~~Portfolio Alternate Assessment portfolio alternate assessment~~ is sought.
- 4.4.1.1 For students who transfer into the LEA after October 15th, the process for participation in the ~~Portfolio Alternate Assessment portfolio alternate assessment~~ will be outlined in the *Portfolio Alternate Assessment Participation Guidelines*.
- 4.4.2 Upon receipt of the written request, the LEA shall convene an IEP meeting to consider the parent's request. The Department shall be informed of any student participating in the ~~Portfolio Alternate~~

Assessment portfolio alternate assessment by December 15th of the school year for which the Portfolio Alternate Assessment portfolio alternate assessment is sought.

4.4.3 Participation in the Portfolio Alternate Assessment portfolio alternate assessment is an annual decision made by the IEP team including the LEA representative (e.g. ~~administrator/designee~~ administrator or designee) through consideration of the criteria outlined in the *Portfolio Alternate Assessment Participation Guidelines*.

4.4.4 In no event shall an IEP team, school or district advocate for parents to exercise the right to request a Portfolio Alternate Assessment portfolio alternate assessment.

4.5 Procedure for Design and Evaluation of Portfolio Alternate Assessments

4.5.1 The Portfolio Alternate Assessment portfolio alternate assessment shall be a state developed assessment with the components of the design and evaluation determined by the Department, in consultation with stakeholder groups (e.g., Governor's Advisory Council for Exceptional Citizens) and its assessment provider.

4.5.2 The Portfolio Alternate Assessment portfolio alternate assessment shall assess students on Delaware's extended standards in English Language Arts (including communication), Mathematics, ~~Science~~ Science, and Social Studies as well as additional domains such as life skills, self-determination, community-based instruction, or vocational training. The additional domains may be aligned with students' Individualized Education Program (IEP) IEP goals, but are not limited to skills on the IEP.

4.5.3 Educators shall gather and document evidence of student achievement with regard to the content standards and additional domain areas, in accordance with the portfolio design and student progress criteria as determined by the Department, in consultation with stakeholder groups (e.g., Governor's Advisory Council for Exceptional Citizens) and its assessment provider.

4.5.4 Portfolios submitted by teachers on behalf of students shall be evaluated using a scoring rubric as determined by the Department, in consultation with stakeholder groups (e.g., Governor's Advisory Council for Exceptional Citizens) and its assessment provider. Only the portions of the portfolio aligned to the extended standards shall be included in the State, LEA and school accountability.

4.6 Alternate Assessment - Unusual Number Review

4.6.1 Combined Alternate Assessment Review

4.6.1.1 At the end of each test window the Department shall calculate the number of students receiving a Performance Level 3 and 4 in both the ~~Selected Response Alternate Assessment~~ selected response alternate assessment and the Portfolio Alternate Assessment portfolio alternate assessment for each LEA.

4.6.1.2 If that number exceeds 1% of the total number of students participating in the ~~General Assessment and Alternate Assessment~~ general assessment and alternate assessment combined within that LEA, the Department shall conduct a review.

4.6.2 Portfolio Alternate Assessment Review

4.6.2.1 At the end of each test window the Department shall calculate the number of students participating in the Portfolio Alternate Assessment portfolio alternate assessment for each LEA.

4.6.2.2 If that number exceeds 10% of the total number of students participating in both the ~~Selected Response Alternate Assessment and Portfolio Alternate Assessment~~ selected response alternate assessment and portfolio alternate assessment within that LEA, the Department shall conduct a review.

18 DE Reg. 556 (01/01/15)

5.0 Levels of Performance

5.1 There shall be ~~four~~ 4 levels of student performance relative to the ~~Content Standards~~ content standards on the State's ~~General and Alternate Assessments~~ general and alternate assessments administered to to:

5.1.1 All students in grades 3 through 8 and 11 in English Language Arts/Literacy and mathematics Arts and Literacy and Mathematics; and;

5.1.2 to students in grades 5, 8, and 10 in science; and to students in grades 4 and 7 in Social Studies, and high school students taking U.S. History (EOC). All students in grades 5 and 8 in Science, and students taking a high school Biology course; and

5.1.3 All students in grades 4 through 8 and 11 in Social Studies.

5.2 The cut points for Performance Levels 1 through 4 shall be determined by the Department with the consent of the State Board of Education, using advice from a standard setting body. The standard setting body shall utilize

a proven method for setting standards on test instruments that utilizes student assessment data in making the recommendation. Said levels are defined and shall be determined as follows:

- 5.2 ~~5.2.1~~ Performance Level 4: A student's performance in the tested domain goes well beyond the fundamental skills and knowledge required for students to be at adequate understanding. Students in this category show mastery and thorough understanding of the Delaware ~~Content Standards~~ content standards beyond what is expected at the grade level. The cut points for Performance Level 4 shall be determined by the Department, with the consent of the State Board of Education.
- 5.3 ~~5.2.2~~ Performance Level 3: A student's performance in the tested domain indicates an understanding of the fundamental skills and knowledge articulated in the Delaware ~~Content Standards~~ content standards. Students in this category show mastery and have adequate understanding of the Delaware ~~Content Standards~~ content standards at grade level. The cut points for Performance Level 3 shall be determined by the Department, with the consent of the State Board of Education.
- 5.4 ~~5.2.3~~ Performance Level 2: A student's performance in the tested domain shows a partial or incomplete understanding of the fundamental skills and knowledge articulated in the Delaware ~~Content Standards~~ content standards. The cut points for Performance Level 2 shall be determined by the Department, with the consent of the State Board of Education.
- 5.5 ~~5.2.4~~ Performance Level 1: A student's performance in the tested domain shows minimal understanding and evidence of an inability to apply the fundamental skills and knowledge articulated in the Delaware ~~Content Standards~~ content standards.

7 DE Reg. 51 (07/01/03)

8 DE Reg. 425 (09/01/04)

10 DE Reg. 676 (10/01/06)

14 DE Reg. 1340 (06/01/11)

18 DE Reg. 556 (01/01/15)

6.0 Other Indicators of Student Performance (Suspended pursuant to the annual appropriations bills beginning in FY08)

- 6.1 Local school districts and charter schools may consider other indicators of student performance relative to the state content standards pursuant to 14 **Del.C.** §153 when determining the placement of students who score at Level 1 or Level II on a mandated retake of a portion of the DCAS. Pursuant to 14 **Del.C.** §153, local school districts and charter schools may also consider other indicators of student performance relative to the state content standards when determining if a student may advance to the next grade level without attending summer school. The only other indicators of student performance that may be considered by a local school district or charter school are: student performance on district administered tests pursuant to 14 **Del.C.** §153; student performance on end of course assessments; student classroom work products and classroom grades supported by evidence of student work that demonstrates a student's performance pursuant to 14 **Del.C.** §153.
- 6.2 Any local school district or charter school planning to use other indicators of student performance shall submit the proposed indicators to the Department by September 1st of each year.
- 6.2.1 Any such submission must include a demonstration of how an indicator of student performance aligns with and measures state content standards and the level of performance required to demonstrate performance equivalent to meeting state content standards.
- 6.2.2 Any proposed indicators of student performance must be approved by the Department of Education following consultation with the State Board of Education.
- 6.3 An academic review committee composed of educators in the student's local school district or charter school may then determine if a student has demonstrated proficient performance relative to the state content standards using evidence from the other indicators of student performance as approved by the Department.
- 6.3.1 The academic review committee shall be composed of two classroom teachers from the student's tested grade, one classroom teacher from the grade to which the student may be promoted, one school counselor or other student support staff member and two school building administrators.
- 6.3.2 The supervisor of curriculum or instruction for the school district or charter school or designee shall chair the committee.
- 6.3.3 Placement of students with disabilities who are eligible for special education and related services is determined by the student's IEP team.

7 DE Reg. 325 (09/01/03)

10 DE Reg. 676 (10/01/06)

10 DE Reg. 1425 (03/01/07)

14 DE Reg. 1340 (06/01/11)

18 DE Reg. 556 (01/01/15)

7.0 Individual Improvement Plan (IIP) (Suspended pursuant to the annual appropriations bills beginning in FY08)

- 7.1 The following students are required to have an Individual Improvement Plan: Students who score below Level 3 Meets the Standard, on the reading portion of the 3rd, 4th, 5th, 6th, 7th, or 8th grade DCAS or the mathematics portion of the 6th, 7th, or 8th grade DCAS shall have an Individual Improvement Plan prepared by school personnel and signed by the teacher(s), principal or designee and the student's parent, guardian or Relative Caregiver.
- 7.2 The Individual Improvement Plan shall be on a form adopted by the student's school district or charter school. The IIP shall be placed in a student's cumulative file and shall be updated based on the results of further assessments. Such assessments may include further DCAS results as well as local assessments, classroom observations or inventories. For students with an Individualized Education Program (IEP), the IEP shall serve as the Individual Improvement Plan (IIP).
- 7.3 The Individual Improvement Plan shall at a minimum identify a specific course of study for the student that the school will provide and the academic improvement activities that the student shall undertake to help the student progress towards meeting the standards. Academic improvement activities may include mandatory participation in summer school, extra instruction and mentoring programs.
- 7.4 The Individual Improvement Plan shall be prepared by school personnel and signed by the teacher(s), principal or designee and the student's parent, guardian or Relative Caregiver who must sign and return a copy of the student's Individual Improvement Plan to the student's school by the end of the first marking period.
- 7.5 Disputes initiated by a student's parent or legal guardian or Relative Caregiver concerning the student's IIP shall be decided by the academic review committee. Any dispute concerning the content of a student's IEP is subject to resolution in conformity with 14 **DE Admin. Code** 900.

7 DE Reg. 51 (07/01/03)

8 DE Reg. 425 (09/01/04)

10 DE Reg. 676 (10/01/06)

14 DE Reg. 1340 (06/01/11)

18 DE Reg. 556 (01/01/15)

8.0 Summer School Programs for Students in Grades 3, 5, and 8 as required pursuant to 14 Del.C. §153 (Suspended pursuant to the annual appropriations bills beginning in FY08)

- 8.1 Summer school programs shall be provided by the student's district of residence with the following exceptions:
 - 8.1.1 Where a student attends another district as a result of school choice or attends a charter school, the district of choice or charter school shall provide the summer school program.
 - 8.1.2 Where by mutual agreement of both districts or a charter school and the student's parent, guardian or Relative Caregiver, another district provides services.
 - 8.1.3 Where by mutual agreement of the student's school district or a charter school and the student's parent, guardian or Relative Caregiver, the parent, guardian or Relative Caregiver arranges for summer school instruction to be provided outside the public school system. Under such conditions the parent, guardian or Relative Caregiver shall be responsible for the cost of providing nonpublic school instruction unless the districts or the charter school and parents or guardian agree otherwise. Requirements for secondary testing shall be met.
 - 8.1.4 Where a student has been offered admission into a career technical school district or charter school, that district or charter school may provide summer school services.

8 DE Reg. 425 (09/01/04)

9 DE Reg. 1175 (02/01/06)

14 DE Reg. 1340 (06/01/11)

18 DE Reg. 556 (01/01/15)

9.0 State of Delaware High School Diploma Requirements (Suspended pursuant to the annual appropriations bills beginning in FY08)

- 9.1 Students who graduate from a Delaware public high school shall meet the following requirements for receipt of a traditional State of Delaware diploma:
 - 9.1.1 The student shall meet all of the requirements as specified in 14 **DE Admin. Code** 505, and shall meet any other additional criteria as determined by the local district or charter school; and

- 9.1.2 The student shall demonstrate proficient levels of performance relative to the State content standards in reading, mathematics, science and social studies. The student may demonstrate proficient levels of performance through Other Academic Indicators.
- 9.1.3 A student who does not demonstrate proficient performance relative to the state content standards by January 1 of the year in which the student is scheduled to graduate; or who has enrolled from another state or nonpublic school in Delaware during the school year in which the student is scheduled to graduate shall have the school or charter school academic review committee review additional Other Academic Indicators of student performance for purposes of satisfying 9.1.2 of this regulation. The only Other Academic Indicators of student performance that may be considered by a local school district or charter school are: student performance on district administered tests pursuant to 14 **Del.C.** §153(e); student performance on end of course assessments; student classroom work products; and classroom grades supported by evidence of student work that demonstrates a student's performance pursuant to 14 **Del.C.** §153(a). The district or charter school shall make the determination of whether the student has demonstrated proficient performance relative to the state content standards.
- 9.1.3.1 Any local school district or charter school planning to use Other Academic Indicators of student performance shall submit the other academic indicators to the Department, for recording and filing purposes only, by September 1st of each year.
- 9.1.3.2 An academic review committee composed of educators in the student's local school district or charter school may then determine if a student has demonstrated proficient performance relative to the state content standards using evidence from the Other Academic Indicators of student performance.

7 DE Reg. 51 (07/01/03)

8 DE Reg. 425 (09/01/04)

9 DE Reg. 1175 (02/01/06)

10 DE Reg. 1425 (03/01/07)

14 DE Reg. 1340 (06/01/11)

18 DE Reg. 556 (01/01/15)

10.0 Security and Confidentiality

- 10.1 In order to assure uniform and secure procedures, the DeSSA shall be administered pursuant to the DeSSA Test Security Manual, as ~~the same, may DeSSA may,~~ from time to ~~time~~ time, be amended ~~hereafter~~.
- ~~40.4~~ 10.1.1 Every district superintendent, charter school leader, District Test Coordinator, school principal, and School Test Coordinator shall sign the certification provided by the Department regarding assessment security before, during and after assessment administration.
- ~~40.2~~ 10.1.2 All individuals participating in the administration of any general and alternate assessment shall complete corresponding training and affix their signature to the DeSSA Security Form. These individuals include, ~~but are not limited to~~ district superintendents, charter school leaders, District Test Coordinators, School Test Coordinators, school principals, school ~~counselors and teachers~~ counselors, certified teachers, and any non-certified professional or support staff.
- ~~40.3~~ 10.1.3 Violation of the security or confidentiality of any assessment required by the Delaware Code and ~~the Regulations of the Department~~ Title 14 of the Delaware Administrative Code shall be prohibited.
- ~~40.4~~ 10.1.4 Procedures for maintaining the security and confidentiality of an assessment shall be specified in the appropriate assessment administration materials, as determined by the Department pursuant to 14 **Del.C.** §170 through §174.
- ~~40.5~~ 10.2 Procedures for Reporting Security ~~Breaches~~ Incidents
- ~~40.5.4~~ 10.2.1 School Test Coordinators shall report any ~~questionable situations~~ potential test security incidents to the District Test Coordinators immediately ~~following procedures established by the Department~~.
- ~~40.5.2~~ 10.2.2 District Test Coordinators, ~~and School Test Coordinators~~ shall report all ~~situations~~ potential test security incidents immediately to the State Director of the Office of Assessment ~~following procedures established by the Department~~.
- ~~40.5.2.4~~ 10.2.2.1 Within 5 working days of the incident the District Test Coordinator ~~or School Test Coordinator~~ shall file a written report with the State Director of the Office of Assessment that includes the sequence of events leading up to the situation, statements by everyone interviewed, and any action either disciplinary or procedural, taken by the district or charter school.
- ~~40.5.2.2~~ 10.2.2.2 Following a review of the report by the State Director of the Office of Assessment and the ~~Chief Accountability and Performance Officer~~ Associate Secretary, an investigator from the Department ~~will~~ may be assigned to verify the district or charter school report.

~~10.5.2.3 10.2.2.3~~ Within 20 working days of the receipt of the report from the District Test Coordinator or the School Test Coordinator, the The assigned investigator shall meet with the district or charter school personnel involved in the alleged violation. The meeting will be scheduled through the ~~School or District Test Coordinators~~ Coordinators, and the investigator shall be provided access to all parties involved and to any witnesses. **[The assigned investigator will investigate with due diligence towards timely resolution.]**

~~10.5.2.4 10.2.2.4~~ The investigator shall report the findings to the ~~Chief Accountability and Performance Officer Associate Secretary~~. Following the ~~review review~~, the ~~Chief Accountability and Performance Officer Associate Secretary~~ shall make a ruling ~~describing any decision and~~ recommendations and ~~required actions as appropriate for further actions including~~ **[prosecutions licensure actions]** in accordance with 14 **Del.C. §1218**.

~~10.5.2.5~~ The ruling shall be delivered within 20 working days of the receipt of all reports and information and records shall be kept of all investigations.

~~10.2.2.5~~ All information and records shall be kept by the Investigations Unit of the Department, per its standard protocol. **[The assigned investigator will investigate with due diligence towards timely resolution.]**

10 DE Reg. 676 (10/01/06)

14 DE Reg. 1340 (06/01/11)

18 DE Reg. 556 (01/01/15)

11.0 Procedures for Reviewing Secure Materials from the State Assessment System

11.1 A student's current ~~teacher(s)~~ teacher, an eligible student, or a student's parent, guardian, or relative caregiver may request to review the general assessment questions for a specific student or students subject to the following provisions:

11.1.1 Any request to review a general assessment item shall be done on a form developed by the Department which will include a list of permissible item types for review. The completed and signed form shall be sent to the State Director of the Office of Assessment.

11.1.2 A teacher's request shall include an appropriate reason for reviewing the student's assessment. Appropriate reasons shall include the following: concerns about incorrect scoring; suspicion of misattribution of scores; or other reasons acceptable to the Department.

11.1.3 The Department shall be allowed sufficient time to secure a copy of the student's assessment questions and corresponding responses from the assessment vendor.

11.1.4 The Department shall arrange a mutually convenient time and location for a meeting to review the assessment information with the requesting ~~individual(s)~~ individuals. At the time of the appointment, the individual shall: provide proper identification upon arrival, sign a confidentiality document, remain with a Department staff member while reviewing the assessment ~~questions~~ questions, and take nothing out of the viewing area.

11.1.5 The Department shall review the procedures for viewing the items for a specific student or students, assist the ~~individual(s)~~ individuals with understanding the score results, and keep records of all reviews.

4 DE Reg. 464 (09/01/00)

5 DE Reg. 620 (09/01/01)

8 DE Reg. 425 (09/01/04)

14 DE Reg. 1340 (06/01/11)

18 DE Reg. 556 (01/01/15)

12.0 Invalidation and Special Exemptions

12.1 There may be invalidations for students ~~in grades 3 through 8 and 11 for English Language Arts/Literacy and Mathematics, students in grades 5, 8, and 10 in Science; and students in grades 4 and 7 in Social Studies; and high school students taking U.S. History (EOC)~~ taking any general or alternate assessments. An invalidation is a response to an ~~events~~ incident, event, or situation that occurs during the administration of the assessments which may result in a statistically unreliable or invalid score report for a student. ~~Invalidations may occur as a result of either: intentional student conduct, including but not limited to cheating and disruptive behavior; or unforeseen and uncontrollable events, including but not limited to onset of illness.~~ Invalidating a student's test eliminates the test results, and the student does not receive a valid score for accountability purposes, and the student is not counted as a participant in the assessment. The Department may invalidate any test under the following conditions:

12.1.1 A test security breach;

12.1.2 An improper or irregular administration resulting in unreliable scores, whether intentional or accidental; or

12.1.3 Student misconduct resulting in unreliable scores.

12.2 After reviewing the circumstances of an incident, the Department may elect only to document the above conditions as testing irregularities rather than to invalidate the test.

12.1.4 12.3Reporting of events or situations that occur during assessment.

12.1.4.1 12.3.1The school building principal or designee shall notify the District Test Coordinator in writing within 24 hours of ~~events incidents, events,~~ or situations that the principal reasonably believes may result in an invalid score report for a ~~student(s) student.~~

12.1.4.2 12.3.2The District Test Coordinator ~~or School Test Coordinator~~ shall notify the Department staff person assigned to the district or charter school for assessment security purposes as soon as the Coordinator learns of events or situations which may result in ~~invalidation(s) invalidation.~~

12.1.4.2.1 The District Test Coordinator ~~or School Test Coordinator~~ shall submit an Incident Report Form within ~~three 3~~ 3 business days of the events. Written reports from the building principal or designee and any staff must be included with the Incident Report.

12.1.4.3 12.3.3The State Director of the Office of Assessment for the Department shall determine whether the reported events warrant invalidating a ~~student(s) student's~~ score and such decision shall be final.

12.1.2 Consequences of invalidations.

12.1.2.1 ~~Whenever the State Director of the Office of Assessment for the Department determines that a student's assessment score is invalid as a result of an intentional act of the student, the student may be assigned a Performance Level 1 or other action recommended by a review committee, made up of Department staff, and agreed upon by the Secretary of Education or designee, for that assessment. The assessment score of any such student shall be reported and counted in the assessment scores of the student's school for all purposes, including school and district accountability.~~

12.1.2.2 ~~Whenever the State Director of the Office of Assessment for the Department determines that a student's assessment score is invalid as a result of an event which is unforeseen and beyond the control of the student and if the student is unable to participate in a make-up assessment, the student shall not be subject to any of the consequences as would otherwise be imposed pursuant to law; the assessment score of any such student shall not be reported or counted in the test scores of the student's school for any purpose, including school and district accountability.~~

12.2 12.4Special Exemptions There may be special exemptions for students in grades 3 through 8 and 11 for Reading and Mathematics, students in grades 5, 8, and 10 in Science; and students in grades 4 and 7 in Social Studies. English Language Arts and Literacy and Mathematics; students in grades 5 and 8 in Science, and students taking a high school Biology course; and students in grades 4 through 8 and 11 in Social Studies.

12.2.1 12.4.1A special exemption may be available when ~~one~~ any 1 of the following applies:

12.2.1.1 12.4.1.1The student is suffering from severe illness or injuries or the student has recently experienced severe traumatic events;

12.2.1.2 12.4.1.2The student is ~~receiving services at an out-of-state residential program that is approved by the student's Individual Education Program (IEP), is medically admitted to, or is ordered by the court to attend an alternative program;~~

12.2.1.3 12.4.1.3The student is ~~receiving services at an in-state program that is not a Consortium Discipline Alternative Program (CDAP) as defined in 14 DE Admin. Code 611, or is not under the supervision of the Division of Services for Children, Youth and their Families (DSCYF). The exemption may apply to a student serving time at an adult prison; or~~

12.2.1.4 12.4.1.4Other situations identified by the ~~school,~~ school and evaluated and approved by the Department.

12.2.2 12.4.2The District Test Coordinator ~~or School Test Coordinator~~ shall submit a Request for Special Exemption to the State Director of the Office of Assessment at the Department ~~within ten (10) days of the date the school becomes aware of the student's issue according to the timeline published by the Department.~~ A copy of the healthcare provider's statement shall be required for 12.2.2.1 subsection 12.4.1.1 in the preceding subsection and shall be maintained as documentation at the school or district.

12.2.2.1 12.4.2.1The State Director of the Office of Assessment shall convene a review committee of not less than ~~three 3~~ 3 Department staff to review requests for special exemptions.

12.2.2.2 12.4.2.2The Office of Assessment shall decide whether a request for a special exemption should be granted. The Office of Assessment shall notify the District Test Coordinator ~~or School Test Coordinator~~ of the decision. The Office of Assessment decision shall be final.

~~12.2.3~~ 12.4.3Consequences of Special Exemptions.

~~12.2.3.1~~ 12.4.3.1Any special exemption granted by the Department is limited to the assessment period for which it was requested and does not carry forward to future assessment administrations.

~~12.2.3.2~~ 12.4.3.2Students who are granted a special exemption shall not be included in the participation rate calculation for school and district accountability pursuant to 14 **DE Admin. Code** ~~103.2.4~~ 103, subsection 2.4.

~~12.2.3.3~~ ~~Students who are granted a special exemption shall not be subject to any of the student testing consequences, as applicable.~~

5 DE Reg. 2115 (05/01/02)

8 DE Reg. 425 (09/01/04)

10 DE Reg. 676 (10/01/06)

10 DE Reg. 1425 (03/01/07)

14 DE Reg. 1340 (06/01/11)

18 DE Reg. 556 (01/01/15)

28 DE Reg. 220 (09/01/24) (Final)