

## **Testing opt-out/Refusal guide for Delaware**

**Form completed by UOO Administrator (MM)**

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**Special thanks to “montagnebeau”** who sent a detailed email informing us of “on the ground” changes to DE policies

### **List of assessments**

**See [http://www.doe.k12.de.us/assessment/files/SY\\_13-14\\_Assess\\_Cal.pdf](http://www.doe.k12.de.us/assessment/files/SY_13-14_Assess_Cal.pdf)** for the 2013-2014 assessment calendar.

Delaware’s state assessments in Reading, Mathematics, Science, and Social Studies are delivered online using the Delaware Comprehensive Assessment System (DCAS).

These tests include grades 2–10 Reading and Mathematics blended assessments; grades 4 and 7 Social Studies; grades 5, 8, and 10 Science; and End of Course (EOC) tests.

Grades 2–10 Reading and Mathematics are used to show growth and calculate AYP. EOC tests are also required for grade promotion and graduation.

### **Special considerations for the above assessments**

- The "DSTP" is a different test that the aforementioned "DCAS." DSTP has been completely replaced by DCAS. Delaware no longer administers DSTP,
- While a statutory requirement may still exist requiring students who score poorly on the DCAS to attend summer school, the state has been unable to fund most summer school programs for several years. Therefore, the state does not at this time mandate summer school for these students.
- Delaware eliminated the three-tiered diploma model shortly after it was implemented do to backlash. High school students may earn a diploma, if they are on an academic track or attend a school in one of the vo-tech school districts. Students who take the DCAS Alt-II - the alternative assessment for children with severe disabilities - may only earn a "Certificate of Performance/Attendance." This certificate is so pathetic that it is less valuable than a GED. Students with various manifestations of autism are frequently targeted for this certificate b/c of their demonstrated failure on the DSTP and later DCAS - both tests that were not designed to account for the various ways children with autism are able to express the knowledge they have acquired.

### **Procedures for opt-out/refusal**

Since promotion to all tested grade levels including elementary require successful passage of DCAS, opting out will be an act of civil disobedience. The exemptions from testing are narrow and opting out in DE will challenge the existing policies where they violate Constitutional rights.

**[http://de.portal.airast.org/resources/Manuals\\_Guides/DCAS\\_TAM\\_2012-2013.pdf](http://de.portal.airast.org/resources/Manuals_Guides/DCAS_TAM_2012-2013.pdf)**

Some students may qualify for an exemption from the DCAS during a particular testing window. These include the following:

- Students receiving services at an out-of-state residential program that is approved by the student's IEP
- For the Reading test only, recently arrived ELL students (who have been in U.S. schools less than one year at time of testing)
- Students too ill to test or students who have recently experienced severe traumatic events
- Other student situations identified by the school and evaluated and approved by the Department

### **Urgency for opt-out/refusal**

High Stakes Testing—

- Is not scientifically-based and fails to follow the U.S. Government's own data on learning.
- Fosters test driven education that is not meeting the individual/intellectual needs of students.
- Presents a racial and economic bias that is beneficial to white middle/upper class students and detrimental to second language students, impoverished students, and students of color.
- Is in opposition to the corrective action in gaps in opportunity and resources sanctioned by the Fiscal Fairness Act.
- Supports complicity of corporate interests rather than democracy based on public concerns.
- Fosters coercion over cooperation with regards to federal funding for public education.
- Promotes a culture of lying, cheating, and exploitation within the school community.
- Has used the achievement gap to foster a “de facto” segregation that has resulted in separate and unequal education for minorities.
- Additionally, data collection of student's private information cannot be guaranteed security or that it will not be abused in some way by third party entities.
- Low/poor test scores, which are likely to occur with more frequency with Common Core and PARCC will be used to fire teachers, create more online learning scenarios even in elementary schools, and close more public schools to be replaced with for profit charter schools.

## Sample language to include in opt-out/refusal

Parents will have to rely on either a broad interpretation of the exemption clause language such as “too ill” or will need to rely on the precedents out forward by the U.S. Constitution (see Opt Out Sample Letter)

### Sample Opt Out Letter

Dear -----,

We are refusing to allow our child, -----, to take the DCAS or any other high stakes standardized tests. We believe that our child’s educational progress can best be measured using her daily school work and regular classroom testing. It is our legal right to demand that our child’s proficiency in any content area be measures by other instruments other than the DCAS and cannot be denied access to appropriate placement in a public education for refusing to complete the DCAS.

According to the U.S Constitution, specifically the 14th Amendment, I am protected by my rights to religious/spiritual freedom and this federal law supersedes state in regard to parental control over one’s child. Under the law, you cannot deny my request.

Parental rights are broadly protected by Supreme Court decisions (Meyer and Pierce), especially in the area of education. The Supreme Court has repeatedly held that parents posses the “fundamental right” to “direct the upbringing and education of their children.” Furthermore, the Court declared that “the child is not the mere creature of the State: those who nurture him and direct his destiny have the right coupled with the high duty to recognize and prepare him for additional obligations.” (Pierce v. Society of Sisters, 268 U.S. 510, 534-35) The Supreme Court criticized a state legislature for trying to interfere “with the power of parents to control the education of their own.” (Meyer v. Nebraska, 262 U.S. 390, 402.) **In Meyer, the Supreme Court held that the right of parents to raise their children free from unreasonable state interferences is one of the unwritten “liberties” protected by the Due Process Clause of the Fourteenth Amendment.** (262 U.S. 399). In recognition of both the right and responsibility of parents to control their children’s education, the Court has stated, **“It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for the obligations the State can neither supply nor hinder.”** (Prince v. Massachusetts, 321 U.S. 158)

We believe that a single “snapshot” test, such as the DCAS, cannot adequately assess our child’s skills. We also believe this testing creates undue stress and anxiety; narrows the curricula; and enforces a culture of teaching to the test which is void of critical, conceptual, and creative thinking. It is for these reasons that ----- will not be taking the (list tests) this school year. I respectfully request that -----'s class grades, class placement, and eligibility to enter the magnet school lottery not be affected by refusal of this test. Please contact me at -----so we can discuss the alternative classwork ----- will be given during test preparation and testing. After our phone call, I would also appreciate a written acknowledgment of this email and our phone call be sent to my email address, -----, or sent home with my child. Please include verification

that my child's grades, class placement, and eligibility for the magnet school lottery, etc. will not be affected by this refusal. In addition, please document which activities my child will be participating in while his/her fellow students are testing. Thank you for your time and consideration.

Respectfully,

----- (date)

### Resources and organizations

*Kilroy's Delaware* (Edward Willing) <http://kilroysdelaware.wordpress.com>

Delaware Against the Common Core <https://www.facebook.com/pages/Delaware-Against-Common-Core/141637639346274>

### State specific watch-list

Delaware Governor Jack Markell. His own state of Delaware received \$119 million to implement Common Core standards and the surrounding requirements through the Federal Race to the Top program (a committee on which he co-chaired).

<http://www.redstate.com/freedomworks/2013/06/12/delaware-governor-jack-markell-gets-it-wrong-on-common-core-again/>

Former State Superintendent of Education Lillian Lowery a former Eli Broad Leadership Academy participant. <http://thebroadreport.blogspot.com/p/parent-guide.html>

### Additional or miscellaneous information

“Now in parents across nine states : Colorado, Delaware, Georgia, Illinois, Kentucky, Louisiana, Massachusetts, New York and North Carolina, are fighting to keep their kids’ names, addresses, social security numbers, learning disabilities , test scores , attendance, hobbies, career goals, attitudes toward school , and even homework completion from private companies.”

<http://seattleducation2010.wordpress.com/2013/03/24/the-opt-out-update-more-parents-around-the-country-are-opting-their-students-out-of-high-stakes-testing-and-the-issue-of-student-privacy-rights-is-front-and-center/>

**On December 27, 2011, the News Journal – DE statewide newspaper - published the following post on their online education blog:**

<http://blogs.delawareonline.com/delawareed/2011/12/27/dcas-questions-answered/>

Of Note: The answers were provided by Mike Stetter, the DCAS specialist for the Delaware

Department of Education. His responses are in red, and have not been edited.

What's the process for a parent who wants to opt their child out of the test? What's the ramification for the schools, too? **The requirements of the testing do not provide for the parent to opt their student out of the testing. Student exemptions are provided to students that are not able to be tested due to medical conditions, family trauma, or temporary placements outside of the public school environment. Schools need to have 95% participation in Adequate Yearly Progress calculation. - See more at: <http://blogs.delawareonline.com/delawareed/2011/12/27/dcas-questions-answered/#sthash.jT11Wy3Q.dpuf>**

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Why is the DCAS presented to parents on a 1300 pt scale? Is 1300 actually achievable? If I get all 50 questions correct will I get a 1300? Why does a score of something like an 800 give you an advanced rating if it is only 60 percent of 1300? **The score range is built as a vertical scale across all grade levels. It is possible for an upper grade level student to obtain a 1300 if that student correctly answers all the very hardest items in the subject. The standards are set based on the expectations of the students of a grade level. These expectations do not require the student to get all of the hardest items correct. The cut scores are based on the attainment of the knowledge and skills that a student at each performance level would be expect to know and be able to do.**

Why do I have to take the exam two more times if I score a 4 in the fall? **The Delaware Accountability System submitted and approved by US Department of Education stipulates that school accountability ratings will in part be based on student scores recorded during the spring summative assessment window. There is an additional reason for student participation in multiple assessments- namely, all students are expected to make documented skill and knowledge growth during each school year, with the long term goal that all students will arrive at high school graduation with the skills and knowledge deemed college and career ready. Schools are expected to provide challenging programs of instruction for all students, including differentiation of instruction for students of all ability levels.**

Why does our district now give us another set of computer tests because the teachers aren't getting what they need from the DCAS? **Districts are free to administer additional assessments of a school-wide, district-wide, or grade-wide nature to provide specific information they deem essential to instructional planning.**

How come if my friend gets the same number of questions right or wrong as I do we have different scores? **In adaptive testing, the level of difficulty of the questions affects the score, and the level of difficulty of the questions answered correctly or incorrectly affects the level of the next questions presented.**

What's better: a higher instructional or accountability score? That is dependent on the use of the scores. A higher instructional score than accountability scores indicates that the student received above-grade level questions which they got correct. This indicates to the teacher that this student needs challenging work. A lower instructional score than accountability scores indicates that the student received below-grade level questions which they got incorrect. This indicates to the teacher that this student needs remedial work.

Last year my scores with three error bars really didn't show any growth. I know I learned a lot, so why did the test not show that? What you learned either was not the content material covered on the test or you were not able to demonstrate this learning on the test for another reason.

Why doesn't the DCAS give a national normative score? Don't we want to know where the kids of DE are against the national field? Unlike Terra Nova or other national achievement tests, the DCAS is not being administered elsewhere and these comparisons are not available. It is more important that Delaware students meet the standards set for Delaware students. The DCAS test items are aligned to the Delaware Content Standards. We do have several indices that provide comparisons between Delaware students and other states and the nation- These include the National Assessment of Educational Progress (NAEP) administered to students in Grades 4 and 8 every two years, and the College Board SAT assessment, administered to all Delaware public school juniors (Grade 11) each April.

Are the tests are the "same" throughout the year? Is a score of 100 in the fall the same as a score of 800 in the spring? The questions a student will get may be different, but a fourth-grader receives DCAS test items aligned to the fourth grade test blueprint. Beyond that, the student receives DCAS items during the test session that provide the most precise estimate of their current skills and knowledge. A score of 100 in the fall is low and a score of 800 in the spring is high – indicating growth.

How can only ten off grade level questions give an accurate placement for test-taker's ability/potential? The ten additional items- which may range above level, below grade level, or on grade level (depending on the student's success on each item)- are then combined with the student's 40 on grade level items to yield the Instructional score. Therefore, the ten items are not used in isolation to create a score.

If the average score for the beginning of the year is at the "meets proficiency" range again is that in comparison to the entire content of the material to be covered/mastered in that grade level? How high can a kid go? The student scoring "meets proficiency" level 3 in the fall has demonstrated proficiency on a sample of the learning expectations, or standards for that grade. In the mid-year and spring assessment windows, the student will likely receive test items sampling other areas of the grade level learning expectations. With the benefit of the classroom learning over the course of the year, most students will demonstrate rising scale scores on the DCAS. If these gains are large enough, the student would move from "meets proficiency" to "advanced" as the school year proceeds.

How do you find out in advance which day your child's DCAS tests will be? **Check with your school. Each school sets its own testing schedule.**

I know that ELA and Math get a couple of tests a year to try and improve their scores throughout the year. How come Science and Social Studies do not? **ELA and Math are considered basics for all learning. The emphasis of the federal requirements and growth is on ELA and Math. This doesn't make Science and Social Studies less important but does direct the federal and state funds for testing toward multiple assessments of ELA and Math skill development. Federal requirements include assessment of Science and Social Studies once in grades 3-8 and once (for science only) during the high school years. Finally, student success in ELA-reading and Mathematics are considered essential for success in all other subjects. It is therefore of utmost concern to schools and to DDOE that early and regularly spaced assessments in these two areas are held in order to identify students needing additional academic support or enrichment.**

What do the teachers see about their individual students from the testing company? Does this happen quickly? Is it helpful? Is it something they wouldn't have picked up on otherwise? **The teachers can view/download scores for their assigned students overall and by several reporting categories as soon as the student completes the test. They can see a further breakdown of the scores by benchmarks for a group of students. Teacher review of individual skill strengths or deficits reported by our DCAS vendor is intended as the first step in a review of current and upcoming instructional plans for possible adjustment of emphasis or academic support as needed for individual students or groups.**

How come the students have to take the test three or four times a year? If they get a four off the bat, why are they not done? **We want to see growth throughout the year as well as ensure they do not regress. If they are proficient in the fall, that does not mean they should not be receiving high quality instruction and learning throughout the year. There is always more to be learned.**

Please ask DOE why they chose the DCAS instead of the superior MAP test. **DOE followed state law in putting the contract out for competitive bid. A review panel comprised of teachers, specialists, administrators and a limited number of DDOE officials scored all received proposals on a detailed rubric, and invited finalists to demonstrate their proposed assessment system. The American Institutes of Research proposal emerged as the highest rated proposal.**

Also, I would be interested to know how parents can opt their child out from taking the DCAS. **The requirements of the testing do not provide for the parent to opt their student out of the testing. Student exemptions are provided to students that are not able to be tested due to medical conditions, family trauma, or temporary placements outside of the public school environment. Schools need to have 95% participation in Adequate Yearly Progress calculation.**

How does DCAS meet the needs of students more than one grade level behind their numeric grade or above their numeric grade? **The DCAS will help identify students that are far below grade level. Teachers/school administrators are encouraged to compare DCAS results with other school-based and classroom-based assessments collected during the year to serve as a basis for instructional decision making.**

Learning Point Navigator offers lessons and skills identified by the DCAS for specific students. What does it offer for students in high school? How does Learning Point Navigator benefit high school teachers/students? Learning Point Navigator provides resources for grades 3-8. DDOE has advertised for online resources geared to the high school level, and plans to announce a contract for these resources in January 2012.

Why was the Terra Nova test taken in addition to DCAS? Will Terra Nova be taken again this year? Terra Nova was taken to provide a nationally normed test in reading and mathematics similar to the Scholastic Aptitude Test used during the DSTP years. The Terra Nova was discontinued at the end of the 2010-2011 school year in response to district/charter requests to reduce overall testing time, and also in response to feedback from the field that the score information was of little use in instructional decision-making. States are not required to administer nationally normed assessments with the exception of the National Assessment of Educational Progress (samples of grade 4 and 8 students in each state take the NAEP reading or mathematics assessment every two years). Results are reporting nationally and by state.

If a student (or a large group of students) are proficient in the Fall or Winter, and then not proficient in the Spring, is it fair to penalize a school as “not proficient” for a student that has been proficient twice? Important to note is that students have two opportunities to take the test in the spring to help ensure a student having a bad day for whatever reason is not the reason for the poor score. If students regress during the year or otherwise do not end the year proficient, that is a concern.

What is the punishment for a student who refuses to take the test (or just sits and hits random buttons)? Does refusing to take the test hurt the student, or just the school that they attend? Existing student consequences linked to state assessment results (e.g., retention in grade, mandatory summer school, mandatory re-testing, mandatory individual improvement plan) have been stayed by the Delaware General Assembly for the past two school years due to budgetary restrictions. Ferguson Scholarships to the highest scoring students have continued throughout this two year period. The issue of restoring student consequences is under active consideration at DDOE. Local input from teachers, parents, administrators and students will be sought to inform policy discussions regarding student consequences.

Is there a reason why the DCAS results are not required for promotion from one grade to the next? This would assure that all students are actually on grade level with the grade that they are enrolled in. Existing student consequences linked to state assessment results (e.g., retention in grade, mandatory summer school, mandatory re-testing, mandatory individual improvement plan) have been stayed by the Delaware General Assembly for the past two school years due to budgetary restrictions. Ferguson Scholarships to the highest scoring students have continued throughout this two year period. The issue of restoring student consequences is under active consideration at DDOE. Local input from teachers, parents, administrators and students will be sought to inform policy discussions regarding student consequences

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