

# TITLE 14

## Education

### Free Public Schools

#### CHAPTER 1. DEPARTMENT OF EDUCATION

#### Subchapter III. State Public Education Assessment and Accountability System

##### § 151 State assessment system; rules and regulations.

(a) The Department shall adopt rules and regulations consistent with the laws of this State governing the statewide assessment of student achievement and the assessment of the educational attainments of the Delaware public school system. The Secretary shall consult with the State Board and representatives of the local school districts in designing and implementing the assessment program required under this section. The assessment program shall be designed and operated to provide the General Assembly, the Governor, the Secretary, the State Board of Education, educational administrators, teachers, parents and the public with timely and accurate information on student achievement and educational attainments.

(b) The Department shall administer both accountability and growth assessments of student achievement for students in grades 3 through 8, provided that additional grades may be added by the Department.

(c) The assessments referred to in subsection (b) of this section shall measure achievement in English language arts and mathematics for students in a minimum of grades 3 through 8 and high school, provided additional grades may be added by the Department. Science and social studies shall be assessed for students at least once in the elementary grades, at least once in the middle grades, and at least once in high school.

(d) The assessments required in subsections (b) and (c) of this section shall measure:

- (1) Student performance as required by any federal mandate; and
- (2) For grades 3 through 8, the academic progress of individual students.

(e) Notwithstanding any law or regulation to the contrary, matriculation and academic promotion requirements imposed by § 153 of this title shall be based upon the student's assessment results received on assessments referred to in subsections (b) and (c) of this section.

(f) The Department shall establish alternate assessments for children with disabilities who cannot participate in the statewide assessment of student achievement even with appropriate accommodations and modifications. Alternate assessments must be developed and used in the statewide assessment beginning not later than the 2010-2011 school year. Each local school district, through the individual student's Individualized Education Program Team or 504 Team, shall determine what assessment the student will take, as well as the student's matriculation or promotion status and necessary remedial activities if the student's performance on the assessment is below standard, and if the statewide assessment is administered, what accommodations and/or modifications will be utilized. However, no student shall be denied the opportunity to take the state assessments administered pursuant to subsections (b) and (c) of this section.

(g) For kindergarten through second grade, all school districts are required to follow the state standards, to assess the progress of students toward meeting those standards, and to report such progress to parents.

(h) The Department shall adopt rules and regulations to implement a common statewide readiness tool that will review a child's readiness for learning when they enter kindergarten. The readiness tool shall serve as the basis for an objective readiness review conducted by the child's teacher or other members of the child's school team. The readiness tool shall review, but not be limited to, the following 5 domains:

- (1) Language and literacy development;
- (2) Cognition and general knowledge;
- (3) Approaches toward learning;
- (4) Physical well-being and motor development; and
- (5) Social and emotional development.

(i) Implementation of the tool delineated in subsection (h) of this section above shall be phased in with the first identified kindergarten classes completing the readiness review in fall 2012. Thereafter the implementation of the readiness reviews shall be phased in with additional kindergarten classes participating in fall 2013 and fall 2014, with statewide implementation no later than fall 2015. The readiness reviews shall be completed within 30 school days of the start of school. A kindergarten student shall be required to be reviewed for readiness once during the student's enrollment in kindergarten. The Department regulations promulgated pursuant to this section shall address any exceptions to the requirement for implementation of the readiness tool for all students, based on factors such as a student's late enrollment in kindergarten.

(j) Notwithstanding any other language in this title, a student who has been formally classified as having 1 of the following 4 conditions, and whose parent, IEP team, and school district superintendent or charter school leader believe will not produce valid results on either the standard or alternate assessment despite accommodations and adjustments, shall receive his or her alternate assessment through consideration of work samples, projects and portfolios, which facilitate authentic and direct gauges of student performance with respect to both relevant state standards and the student's IEP (a "portfolio assessment"). The definition of each of the following 4 conditions shall be the same that is in effect on July 15, 2014, in §§ 922 and 925 of this title of the Delaware Administrative Code [CDR 14-900-922 and 14-900-925]:

- (1) Moderate intellectual disability;
- (2) Severe intellectual disability;
- (3) Autism, accompanied by intellectual functioning equivalent to moderate or severe intellectual disability;
- (4) Multiple disabilities, accompanied by intellectual functioning equivalent to moderate or severe intellectual disability.

The parents of a student classified as having 1 of these 4 conditions shall be informed of their child's rights under this section, but no IEP team, school or school district shall advocate that parents exercise those rights. Only a student's parents may initiate a portfolio assessment request under this section, and when such a request is made, the student's IEP team and school district superintendent or charter school leader shall make their determinations regarding the portfolio assessment within 60 days of said request. The Department of Education shall promulgate regulations establishing a procedure for the design and evaluation of portfolio assessments requested under this subsection and for further reviews of individual schools and/or school districts that request an unusual number of portfolio assessments. The Department of Education shall also promulgate regulations providing for a method of measuring academic progress by students receiving a portfolio assessment under this section, which: (i) shall provide objective criteria by which student progress can be planned and measured; (ii) shall be developed in consultation with the Governor's Advisory Council on Exceptional Citizens; and (iii) shall satisfy the requirements of 20 U.S.C. §§ 1412, 6311, and any other applicable federal laws or regulations. Students who are granted a portfolio assessment under this subsection shall be included in the participation rate calculation for schools and school districts. Nothing in this subsection shall be construed to limit the authority of the Department to approve exemptions from assessments for students not covered by this subsection.

(k) Rules and regulations pursuant to this subchapter shall be proposed by the Secretary subject to approval by the State Board of Education.

71 Del. Laws, c. 181, § 2; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 294, § 55; 73 Del. Laws, c. 44, § 1; 74 Del. Laws, c. 220, §§ 1, 2; 75 Del. Laws, c. 25, § 2; 75 Del. Laws, c. 305, § 1; 76 Del. Laws, c. 9, § 2; 77 Del. Laws, c. 194, §§ 1-3; 78 Del. Laws, c. 53, §§ 1-4; 78 Del. Laws, c. 264, § 1; 79 Del. Laws, c. 280, § 1; 79 Del. Laws, c. 300, § 1.;

