

-----Original Message-----

From: Ash, Victoria <Victoria.Ash@fldoe.org>

To:

Cc: Kent, Judy <Judy.Kent@fldoe.org>; Lee, Susan <Susan.Lee@fldoe.org>; brandon.mckelvey <brandon.mckelvey@ocps.net>; Landers, Cynthia G. <cynthia.landiers@ocps.net>

Sent: Mon, Apr 7, 2014 11:46 am

Subject: RE: Opt Out of FCAT

Good morning,

First, I want to say that I do appreciate parents who are involved in and concerned about their children's education. Having said that, however, my responsibility is to implement state statute, and the following is my consistent response to this issue when it has come up in the past:

*While the Florida Department of Education is aware that other states may have state laws or federal waivers in place with regard to students opting out of standardized testing, there is no current authority for opting out of such testing in Florida. Under the current incarnation of No Child Left Behind, section 1008.22(3), Florida Statutes, and Rule 6A-1.09422(g), Florida Administrative Code, all students in Florida public schools must participate in standardized testing. Considerations for students with disabilities or English language proficiencies are available should your particular situation be applicable.*

For your convenience, please find the statutory language pertaining to student participation below:

*Participation in the assessment program is mandatory for all school districts and all students attending public schools, including students seeking an adult high school diploma and students in Department of Juvenile Justice education programs, except as otherwise prescribed by the commissioner. If a student does not participate in the assessment program, the school district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation.*

If you wish to access this legislation, please go to [http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=1000-1099/1008/Sections/1008.22.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=1000-1099/1008/Sections/1008.22.html).

Based on the language above, it would not be appropriate for me to weigh in on any alternate plan regarding the test administration protocol for your son. I will say that you are correct about the resulting score; should your son sit for, but not participate in the test, he would not receive a Level 1 score, but would be reported as not having met the attemptedness criteria (this is based on the fact that if a student only answered a small number of questions, the resulting score would likely not indicate his/her true ability). In addition, depending on how the district returned the answer document, the school would receive credit for his participation, but of course there would be no score to use to calculate the school's grade; that would be calculated using the scores actually earned by the other students.

By the way, I've copied several others from my office and from the Orange County assessment office because I would like us all to be on the same page. Judy Kent usually handles the correspondence from our office, Susan Lee is our Director of Test Administration, and Brandon and Cyndy represent the Orange County assessment office.

Best regards,

Victoria

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-----Original Message-----

From:

To: Victoria.Ash <[Victoria.Ash@fldoe.org](mailto:Victoria.Ash@fldoe.org)>

Sent: Wed, Apr 2, 2014 1:54 pm

Subject: Opt Out of FCAT

Mrs. Ash,

I would like to opt my son out of FCAT. He attends school in Orange County Public Schools. I wrote a letter to my son's principal and the response I got was that they are state mandated to give the test, so if he is in school then he has to take the test. The only way for him to not take it is for him to stay home from school for all of the testing dates and the make-up dates, but then I was warned that this would cause a truancy issue.

I then asked what would happen if he was in school but refused to take the test. I was told that the test would be scored anyway and since it would be blank he would receive a Level 1 in all areas.

I have been doing a lot of looking into this and I have found information that I want to confirm with you and see if you can provide any more insight.

In regards to the threat of truancy, the law says:

<http://www.flsenate.gov/Laws/Statutes/2012/984.151>

**984.151 Truancy petition; prosecution; disposition.—**

(1) If the school determines that a student subject to compulsory school attendance has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period pursuant to s. 1003.26(1)(b), or has had more than 15 unexcused absences in a 90-calendar-day period, the superintendent of schools may file a truancy petition.

Wouldn't this mean that the school would have to initiate the report of truancy, and then it would have to be investigated?

In practice, shouldn't this only occur if the school was unaware of the reason for the child's absence. The school will be well aware that my child is not attending due to FCAT testing. I could put it in writing and provide it to them in advance.

***Is my understanding correct?***

In regards to my son receiving a Level 1 on the FCAT for refusing to take the test, please reference this document:

<http://fcats.fldoe.org/fcat2/pdf/s12uf2r.pdf> - Page 10

**Understanding FCAT 2.0 Reports 2012 - Codes for No Date Reported**

The following abbreviations may appear on some student and educator reports:

NR (Not Reported) indicates that no data are reported for the student because he or she answered too few questions for that subject or the test was invalidated. Reports containing student results will indicate that no data are reported for one of the following reasons:

- NR2—Did Not Meet Attemptedness Criteria
- NR3—Marked Do Not Score
- NR5—Off-Grade Tester
- NR6—Duplicate Record
- NR7—FDOE Hold
- NR8—FDOE Invalidated

If a student receives an NR code, the parent or student should consult the student's designated guidance counselor.

So if my son refuses to take the test, his test should be reported by to FLDOE as an NR2 - Did Not Meet Attemptedness Criteria (Refused), and the test would be invalidated. He should not receive a Level 1.

***Is my understanding correct?***

In regards to the "sit and stare" option that my son would have to bear if he decides to go to school but not take the test:

Please see these articles in regards to how this situation is being addressed all around the nation:

<http://www.washingtontimes.com/news/2014/apr/1/ny-students-who-opt-out-common-core-forced-sit-and/>

<http://wivb.com/2014/03/31/parents-protest-schools-so-called-sit-and-stare-policy/>

It does not seem appropriate or legal to have my son sit in a classroom for hours staring at the wall. I need to know what options are available to him. ***Can he read a book? Can he go to the media center? Can he be with other students who are also not testing that day? What are his options?***

You can read this article from February of this year that discusses the growing trend in families choosing to opt out of FCAT and other high-stakes testing. I am not the only parent in Florida who is doing this.

[http://articles.orlandosentinel.com/2014-02-09/features/os-opt-out-standardized-testing-orlando-20140209\\_1\\_fcat-high-stakes-testing-florida-comprehensive-assessment-test](http://articles.orlandosentinel.com/2014-02-09/features/os-opt-out-standardized-testing-orlando-20140209_1_fcat-high-stakes-testing-florida-comprehensive-assessment-test)

I am a member of the group mentioned in this article, Opt Out Orlando. All of us would like more information and guidance as to what are right are for those of us who make this choice.

***We are not going to allow our children to take this test, so the more information and guidance you can provide to us and to the schools would be greatly appreciated.***

Thank you for your time and consideration in this matter.