

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))  
14 **DE Admin. Code** 815

### FINAL

#### REGULATORY IMPLEMENTING ORDER

##### 815 Physical Examinations and Screening

#### I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin. Code** 815 Physical Examinations and Screening to require a second physical examination or evaluation for high school students. The new requirement provides that students entering grade 9 shall have a physical examination or evaluation within 2 years of entry into grade 9. The requirement would begin with the 2012-2013 school year. The regulation also provides what is acceptable as the physical examination or evaluation form. The changes are being proposed based on input and conversations between the Departments of Public Health and Education.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on October 3, 2011, in the form hereto attached as *Exhibit "A"*. Comments were received from the Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities. The Councils suggested a revision to the name of the physical examination to better represent that this is a health screening. The Department agrees and amendments were made to refer to the evaluations or examinations as "Health" rather than "Physical". The Department will make revisions to the Delaware School Health Form.

Additionally, the Councils suggested a dental health examination. While the Department agrees dental examinations are important for health, it could be a resource burden on families. The Department will investigate adding a provision to the "Delaware School Health Examination Form" that the qualified healthcare provider check for dental health and provide a referral or recommendation for further dental examination if needed.

#### II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 815 Physical Examinations and Screening in order to require a second physical examination or evaluation for high school students and to outline what is acceptable as the physical or examination form.

#### III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 815 Physical Examinations and Screening. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 815 Health Examinations and Screening attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 815 Health Examinations and Screening hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

#### IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 815 Health Examinations and Screening amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 815 Health Examinations and Screening in the *Administrative Code of Regulations* for the Department of Education.

#### V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on November 17, 2011. 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 17th day of November 2011.

#### Department of Education

Lillian M. Lowery, Ed.D., Secretary of Education

Approved this 17<sup>th</sup> day of November 2011

## 815 ~~[Physical Health]~~ Examinations and Screening

### 1.0 Definitions

"Delaware School Physical Examination Form" means the age appropriate form developed by the Delaware Department of Education for documenting information from the parent, guardian or Relative Caregiver and healthcare provider on the student's health status.

"Delaware Interscholastic Athletic Association (DIAA) Pre-Participation Physical Evaluation" means the form approved by the DIAA.

"Healthcare Provider" means a currently licensed physician, advanced practice nurse, nurse practitioner, or physician's assistant.

"~~[Physical Health]~~ Examination or ~~[Physical Health]~~ Evaluation" means the medical or nursing examination or evaluation and assessment of the body by a healthcare provider to determine health status and conditions.

### 4.2.0 ~~[Physical Health]~~ Examinations

42.1 All public school students shall have a ~~two~~ ~~[physical health]~~ examinations that ~~has~~ ~~have~~ been administered by a ~~licensed medical physician, nurse practitioner or physician's assistant~~ ~~healthcare provider~~. The ~~first~~ ~~[physical health]~~ examination shall have been done within the two years prior to entry into school. ~~Beginning in school year 2012-2013, the second~~ ~~[physical health]~~ examination shall be required for entering grade 9 students and shall be done within the two years prior to entry into grade 9. ~~Within fourteen~~ ~~thirty~~ calendar days after ~~notification of the requirement for a physical examination entry, new enterers and grade 9 students who have not complied with the second~~ ~~[physical health]~~ examination requirement shall have received a ~~the~~ ~~[physical health]~~ examination or shall have a documented appointment with a licensed health care provider for ~~a~~ ~~the~~ physical examination. ~~For purposes of this regulation only, students entering grades 10, 11 or 12 in the 2012 - 2013 school year shall not be required to have the second~~ ~~[physical health]~~ examination or evaluation.

42.1.1 The requirement for the ~~[physical health]~~ examination may be waived for students whose parent, guardian or Relative Caregiver, or the student if 18 years or older, or an unaccompanied homeless youth (as defined by 42 USC 11434a) presents a written declaration acknowledged before a notary public, that because of individual religious beliefs, they reject the concept of ~~[physical health]~~ examinations.

2.1.2 Notwithstanding the above, a second ~~[physical health]~~ examination shall not be required if the first ~~[physical health]~~ examination is within two years of entering Grade 9.

2.1.3 The Delaware School Physical Examination Form or the DIAA Pre-Participation ~~[Physical Health]~~ Evaluation form may be used as documentation of the ~~[physical health]~~ examination. In addition, a district or charter school may accept a ~~[physical health]~~ examination or evaluation documentation on a form which includes, at a minimum, health history, immunizations, results on medical testings and screenings, medical diagnoses, prescribed medications and treatments, and healthcare plans.

4.1.2 2.1.4 The school nurse shall record all findings on the Delaware School Health Record Form within the student's electronic medical record (see 14 DE Admin. Code 811) and maintain the original copy in the child's medical file.

10 DE Reg. 1807 (06/01/07)

**Non regulatory note:** See 14 DE Admin. Code 1008.3 and 14 DE Admin. Code 1009.3 for physical ~~[or health]~~ examination requirements associated with participation in sports.

### 23.0 Screening

23.1 Vision and Hearing Screening

23.1.1 Each public school student in kindergarten and in grades 2, 4, 7 and grades 9 or 10 shall receive a vision and a hearing screening by January 15th of each school year.

23.1.1.1 In addition to the screening requirements in 2.1.1, screening shall also be provided to new enterers, students referred by a teacher or an administrator, and students considered for special education.

23.1.1.1.1 Driver education students shall have a vision screening within a year prior to their in car driving hours.

23.1.2 The school nurse shall record the results ~~on the Delaware School Health Record Form~~ within the student's electronic medical record and shall notify the parent, guardian or Relative Caregiver or the student if 18

years or older, or an unaccompanied homeless youth (as defined by 42 USC 11434a) if the student has a suspected problem.

### 23.2 Postural and Gait Screening

23.2.1 Each public school student in grades 5 through 9 shall receive a postural and gait screening by December 15th.

23.2.2 The school nurse shall record the findings ~~on the Delaware School Health Record Form~~ within the student's electronic medical record (see 14 **DE Admin. Code** 811) and shall notify the parents, guardian or Relative Caregiver, or the student if 18 years or older, or an unaccompanied homeless youth (as defined by 42 USC 11434a) if a suspected deviation has been detected.

23.2.2.1 If a suspected deviation is detected, the school nurse shall refer the student for further evaluation through an on site follow up evaluation or a referral to the student's health care provider.

### 23.3 Lead Screening

23.3.1 Children who enter school at kindergarten or at age 5 or prior, shall be required to provide documentation of lead screening as per 16 **Del.C.** Ch. 26.

23.3.1.1 For children enrolling in kindergarten, documentation of lead screening shall be provided within sixty (60) calendar days of the date of enrollment. Failure to provide the required documentation shall result in the child's exclusion from school until the documentation is provided.

23.3.1.2 Exemption from this requirement may be granted for religious exemptions, per 16 **Del.C.** §2603.

23.3.1.3 The Childhood Lead Poisoning Prevention Act, 16 **Del.C.**, Ch. 26, requires all health care providers to order lead screening for children at or around the age of 12 months of age.

23.3.2 The school nurse shall document the lead screening ~~on the Delaware School Health Record Form~~ within the student's electronic medical record. See 14 **DE Admin. Code** 811.

**7 DE Reg. 68 (07/01/03)**

**10 DE Reg. 1807 (06/01/07)**

**15 DE Reg. 838 (12/01/11) (Final)**