

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(2) and 131 (14 **Del.C.** §§122(b)(2) & 131)
14 **DE Admin. Code** 805

FINAL

REGULATORY IMPLEMENTING ORDER

805 The School Health Tuberculosis (TB) Control Program

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§122(b)(2) and 131, the Secretary of Education intends to amend 14 **DE Admin. Code** 805 The School Health Tuberculosis (TBD) Control Program. This regulation concerns the health and physical welfare of public school students in the State. This regulation is being amended to clarify the length of time a student who is asymptomatic may remain in school as indicated by a licensed health care provider or Division of Public Health, and to comply with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years.

Notice of the proposed regulation was published in the *News Journal* and *Delaware State News* on October 1, 2019, in the form hereto attached as *Exhibit "A"*. No comments were received.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 805 The School Health Tuberculosis (TBD) Control Program in order to clarify the length of time a student who is asymptomatic may remain in school as indicated by a licensed health care provider or Division of Public Health, and to comply with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 805 The School Health Tuberculosis (TBD) Control Program. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 805 The School Health Tuberculosis (TBD) Control Program attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 805 The School Health Tuberculosis (TBD) Control Program 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** 805 The School Health Tuberculosis (TBD) Control Program amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 805 The School Health Tuberculosis (TBD) Control Program 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 14, 2019. 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 14th day of November 2019.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 14th day of November 2019

805 The School Health Tuberculosis (TB) Control Program

1.0 Definitions

"New School Enterer" means any child ~~between the ages of one year and twenty-one (21) years~~ entering or being admitted to a Delaware public school for the first time, including but not limited to, foreign exchange students, immigrants, students from other states and territories, and children entering from nonpublic schools. For purposes of this regulation, "new school enterer" shall also include any child who is re-enrolled in a Delaware public school following travel or residency of one month in a location or facility identified by the Delaware Division of Public Health as an area at risk for tuberculosis exposure.

"School Staff and Extended Services Personnel" means all persons hired as full or part time employees in a public school. This includes, but is not limited to teachers, administrators, substitutes, contract employees, bus drivers and student teachers whether compensated or not.

"Tuberculosis Risk Assessment" means a formal assessment by a healthcare professional to determine possible tuberculosis exposure through the use of a health history or questionnaire.

"Tuberculosis Test" means a Mantoux skin test, Quantiferon Gold blood test, or other test approved by the Delaware Division of Public Health.

"Verification" means a documented evaluation of the individual's disease status.

"Volunteers" ~~mean~~ means those persons who give their time to help others for no monetary reward and who share the same air space with public school students and staff on a regularly scheduled basis.

13 DE Reg. 1205 (03/01/10)

2.0 School Staff and Extended Services Personnel

- 2.1 School Staff and Extended Services personnel shall provide the Tuberculosis Test results from a test administered within the past ~~42~~ twelve (12) months during the first ~~45~~ fifteen (15) working days of employment.
 - 2.1.1 Tuberculosis Test requirements may be waived for public school staff and extended services personnel who present a notarized statement that tuberculosis testing is against their religious beliefs. In such cases, the individual shall complete the Delaware Department of Education TB Health Questionnaire for School Employees or provide, within two (2) weeks, verification from a licensed health care provider or the Division of Public Health that the individual does not pose a threat of transmitting tuberculosis to students or other staff.
 - 2.1.1.1 If a school staff member or extended services person, who has submitted a waiver because of religious beliefs, answers affirmatively to any of the questions in the Delaware Department of Education TB Health Questionnaire for School Employees he/she shall provide, within two (2) weeks, verification from a licensed health care provider or the Division of Public Health that the individual does not pose a threat of transmitting tuberculosis to students or other staff.
 - 2.1.2 School Staff and Extended Services Personnel need not be retested if they move, within Delaware, from district to district, district to charter school, charter school to district, or charter school to charter school within a ~~five-year~~ five (5) year period; however, a copy of the result of the latest Tuberculosis Test shall be provided to the new district or charter school within sixty (60) days.
- 2.2 Every fifth year, by October 15th, all public school staff and extended services personnel shall complete the Delaware Department of Education TB Health Questionnaire for School Employees or, within two (2) weeks, provide Tuberculosis Test results administered within the last twelve (12) months.
 - 2.2.1 If a school staff member or extended services staff member answers affirmatively to any of the questions in the *Delaware Department of Education TB Health Questionnaire for School Employees* he/she shall provide, within two (2) weeks, verification from a licensed health care provider or the Division of Public Health that the individual does not pose a threat of transmitting tuberculosis to students or other staff.
- 2.3 All documentation related to the School Health Tuberculosis (TB) Control Program shall be retained in the same manner as other confidential personnel medical information.

13 DE Reg. 1205 (03/01/10)

3.0 Volunteers

- 3.1 Volunteers shall complete the *Delaware Department of Education's TB Health Questionnaire for Volunteers in Public Schools* prior to their assignment and every fifth year thereafter.
 - 3.1.1 If the volunteer answers affirmatively to any of the questions, he/she shall provide, within two (2) weeks, verification from a licensed health care provider or the Division of Public Health that the individual does not pose a threat of transmitting tuberculosis to the students or staff.
- 3.2 ~~Each public school nurse shall collect and monitor all documentation related to the volunteer's School Health Tuberculosis (TB) Control Program and store them in the school nurse's office in a confidential manner. All~~ documentation related to the School Health Tuberculosis (TB) Control Program shall be retained in the same manner as other confidential personnel medical information.

4.0 New School Enterers

- 4.1 New school enterers shall provide tuberculosis screening results from either a Tuberculosis Test or the results of a Tuberculosis Risk Assessment administered within the past ~~42~~ twelve (12) months prior to school entry.
 - 4.1.1 If the new school enterer is in compliance with the other school entry health requirements, a school nurse who is trained in the use of the *Delaware Department of Education TB Risk Assessment Questionnaire for Students* may administer the questionnaire to the student's parent(s), guardian(s) or Relative Caregiver or to a new school enterer who has reached the statutory age of majority (18).
 - 4.1.1.1 If a student's parent(s), guardian(s) or Relative Caregiver or a student 18 years or older answers affirmatively to any of the questions, he/she shall, within two (2) weeks, provide proof of tuberculosis testing results or provide verification from a licensed health care provider or the Division of Public Health that the student does not pose a threat of transmitting tuberculosis to staff or other students.
- 4.2 ~~School nurses shall record and maintain documentation relative to the School Health Tuberculosis (TB) Control Program~~ All documentation related to the School Health Tuberculosis (TB) Control Program shall be retained in the same manner as other confidential student medical information.

5.0 Tuberculosis Status Verification and Follow up

- 5.1 Tuberculosis Status shall be determined through the use of a Tuberculosis Risk Assessment, Tuberculosis Test or other testing, which may include x-ray or sputum culture. Individuals who either refuse the Tuberculosis Test or have positive reactions to the same, or give positive responses to a tuberculosis risk assessment shall provide verification from a licensed health care provider or the Division of Public Health that the individual does not pose a threat of transmitting tuberculosis to staff or other students.
 - 5.1.1 Verification shall include Mantoux results recorded in millimeters (if test was administered), or other Tuberculosis Test results, current disease status (i.e. contagious or noncontagious), current treatment (or completion of preventative treatment for tuberculosis) and date when the individual may return to his/her school assignment without posing a risk to the school setting.
 - 5.1.2 Verification from a health care provider or Division of Public Health shall be required only once if treatment was completed successfully.
 - 5.1.3 Updated information regarding disease status and treatment shall be provided to the public school by October 15 every fifth year if treatment was previously contraindicated, incomplete or unknown.
 - 5.1.4 Persons with a positive Tuberculosis Test, without active disease, who do not receive prophylactic treatment shall be excluded from school in the event of showing any signs or symptoms of active, infectious disease as described by the Division of Public Health.
- 5.2 In the event an individual shows any signs or symptoms of active tuberculosis infection, he/she shall be excluded from school until all required medical verification is received by the school. During the specified verification and follow-up an asymptomatic individual, as described by the Division of Public Health, may remain in school until testing and evaluations are completed, but no longer than ~~six (6)~~ ten (10) weeks.

1 DE Reg. 1971 (06/01/98)

3 DE Reg. 440 (09/01/99)

8 DE Reg. 1134 (02/01/05)

13 DE Reg. 1205 (03/01/10)

23 DE Reg. 448 (12/01/19) (Final)

Non regulatory note: See 14 DE Admin. Code 930 Supportive Instruction (Homebound)