

DEPARTMENT OF EDUCATION
Statutory Authority: 14 Delaware Code, Section 122(d) (14 Del.C. §122(d)) 14 DE Admin.
Code 805

FINAL

REGULATORY IMPLEMENTING ORDER

805 School Health Tuberculosis (TB) Control Program

I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin. Code** 805 School Health Tuberculosis (TB) Control Program. The amendments change the requirement for school staff, volunteers and new school enterers concerning the Mantoux tuberculin skin test. This regulation was advertised previously in the May 1, 2004 Volume 7 Issue 11, the July 1, 2004 Volume 8 Issue 1 and the September 1, 2004 Volume 8 Issue 3 *Register of Regulations*. In this version two additional definitions have been added and the definitions are all at the beginning of the regulation. Changes have been made to the last section (now 5.0) and the new title is Tuberculosis Status Verification and Follow Up. In addition changes have been made to the other sections for clarity and accuracy. A non-regulatory note was also added for 14 **DE Admin. Code** 930 Supportive Instruction (Homebound).

Notice of the proposed regulation was published in the News Journal and the Delaware State News on November 14, 2004, in the form hereto attached as *Exhibit "A"*. Comments were received from Governor's Advisory Council for Exceptional Children and the State Council for Persons with Disabilities. The Department changed 4.1 as recommended to improve clarity and made the grammatical correction in 5.1.1 as recommended. The Definition of "New School Enterer" will remain as ages 1-21 since the Department of Public Health does not recommend TB Testing for children under one year of age.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** in order to add two additional definitions and place the definitions at the beginning of the regulation and to change the last section (now 5.0) and re-titled it as Tuberculosis Status Verification and Follow Up. In addition changes have been made to the other sections for clarity and accuracy. A non-regulatory note was also added for 14 **DE Admin. Code** 930 Supportive Instruction (Homebound).

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 805 School Health Tuberculosis (TB) Control Program. Therefore pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 805 attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 805 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 amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 805 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 January 10, 2005. 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 10th day of January 2005.

DEPARTMENT OF EDUCATION

Valarie A. Woodruff, Secretary of Education

805 The School Health Tuberculosis (TB) Control Program

~~1.0 School Employees, Substitutes, Student Teachers, and Contract Employees – All school employees, substitutes, student teachers, and contract employees (including bus drivers) shall receive the Mantoux tuberculin skin test or show proof of being tested in the past 12 months during the first 15 working days of employment.~~

~~1.1 Present employees, substitutes, and contract employees shall show proof of Mantoux tuberculin skin test results to the district designee by October 15, every fifth year of employment.~~

~~1.2 Student teachers need not be retested if they move from district to district as part of their student teaching assignments.~~

~~2.0 Volunteers – Volunteers, those persons who give their time to help others for no monetary reward and who share the same air space with students and staff on a regularly scheduled basis, shall complete the Delaware Department of Education's Health Questionnaire for Volunteers in Public Schools prior to their assignment. Should the volunteer answer affirmatively to any of the questions, he/she must provide proof of a Mantoux tuberculin skin test in the past 12 months before beginning their assignment.~~

~~2.1 Volunteers shall complete the Delaware Department of Education's Health Questionnaire for Volunteers in Public Schools every fifth year.~~

~~2.1.1 The district designee(s) shall collect and monitor the volunteer questionnaires. These questionnaires will be stored in the School Nurse's office in a confidential manner.~~

~~3.0 Students – All new school enterers shall show proof of a Mantoux tuberculin skin test results within the past 12 months or follow the recommendations of the American Academy of Pediatrics (AAP). Health Care Providers must send documentation of the decisions. Multi-puncture skin tests will not be accepted. A school enterer is defined as any child between the ages of one year and 21 years entering or being admitted to a Delaware school district 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.~~

~~3.1 School nurses shall record the results of the Mantoux tuberculin skin test in the School Health Record.~~

~~3.2 Tuberculin skin test requirements may be waived for children whose parent(s) or guardian(s) present a notarized document that tuberculin skin testing is against their religious beliefs.~~

~~4.0 Positive Reactors~~

~~4.1 Positive reactors (those currently identified and those with a history) need verification from a Health Care Provider or Division of Public Health indicating:~~

~~4.1.1 Skin test reaction recorded in millimeters.~~

~~4.1.2 Current disease status, i.e. contagious or non-contagious.~~

~~4.1.3 Current treatment, completion of preventive treatment for TB infection, or chemotherapy for TB disease.~~

~~4.1.4 Date when the individual may return to their school assignment without posing a risk to the school setting.~~

~~4.2 If documentation of the test is available, the known positive reactor need not have this tuberculin skin test but provide the above information related to disease status and treatment.~~

~~4.2.1 Verification from a Health Care Provider or Division of Public Health shall be required only once if treatment was completed successfully.~~

~~4.3 If documentation of the test is unavailable, the individual should be tested. If the individual refuses to be skin tested again, the individual shall provide from a Health Care Provider or the Division of Public Health information related to disease status and treatment.~~

~~4.4 Updated information regarding disease status and treatment shall be provided to the district designee by October 15 every fifth year if treatment was previously contraindicated, incomplete or unknown.~~

See 1 DE Reg. 1971 (6/1/98)

See 3 DE Reg. 440 (9/1/99)

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 TB exposure.

“School Staff and Extended Services Personnel” means all persons hired as full or part time employees in a public school who are receiving compensation to work directly with students and staff. 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.

“Verification” means a documented evaluation of the individual’s disease status.

“Volunteers” mean 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.

2.0 School Staff and Extended Services Personnel

2.1 School staff and extended services personnel shall provide the Mantoux tuberculin skin test results from a test administered within the past 12 months during the first 15 working days of employment.

2.1.1 Tuberculin skin test requirements may be waived for public school staff and extended services personnel who present a notarized statement that tuberculin skin 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 received 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 Student teachers need not be retested if they move from district to district as part of their student teaching assignments.

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 Mantoux tuberculin skin 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.

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 School Health Tuberculosis (TB) Control Program and store them in the school nurse’s office in a confidential manner.

4.0 New School Enterers

4.1 New school enterers shall show proof of tuberculin screening results as described in 4.1.1 and 4.1.2 including either results from the Mantoux Tuberculin test or the results of a tuberculosis risk assessment. [Multi-

puncture skin tests will not be accepted.]

~~[4.1.1 Health care providers shall provide documentation of the Mantoux Tuberculin test results or the tuberculosis risk assessment results for the school. Multi-puncture skin test results will not be accepted.]~~

~~[4.1.2 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).

~~[4.1.2.1 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 Mantoux tuberculin skin test 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.

5.0 Tuberculosis Status Verification and Follow-up

5.1 Tuberculosis Status shall be determined through the use of a tuberculosis risk assessment, tuberculin skin test and other testing, which may include x-ray or sputum culture. Individuals who either refuse the tuberculin skin 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~~ were] administered), current disease status (i.e. contagious or non-contagious), current treatment (or completion of preventative treatment for TB) and date when the individual may return to ~~their~~ 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.

5.2 In the event an individual shows any signs or symptoms of active TB infection, he/she must be excluded from school until all required medical verification is received by the school.

1 DE Reg. 1971 (6/1/98)

3 DE Reg. 440 (9/1/99)

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

8 DE Reg 1134 (2/1/05)