

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b)(2) (14 Del.C. §122(b)(2))
14 DE Admin. Code 805

PROPOSED

PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del. C. §122(d)

805 The School Health Tuberculosis (TB) Control Program

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §122(b)(2), the Delaware Department of Education ("Department") developed amendments to 14 DE Admin. Code 805 The School Health Tuberculosis (TB) Control Program. The regulation is amended to clarify the tuberculosis screening and testing requirements for school staff and extended services personnel, volunteers, and new enrollees in Delaware public schools.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before April 1, 2024. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses tuberculosis screening and testing requirements for school staff and extended services personnel, volunteers, and new enrollees in Delaware public schools and is not designed to help improve student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation addresses tuberculosis screening and testing requirements for school staff and extended services personnel, volunteers, and new enrollees in Delaware public schools and is not designed to help ensure that all students receive an equitable education.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation will help to ensure all students' health and safety are adequately protected by strengthening measures for tuberculosis prevention, detection, and management within schools.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses tuberculosis screening and testing requirements for school staff and extended services personnel, volunteers, and new enrollees in Delaware public schools and is not designed to help ensure students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change the authority and flexibility of decision makers at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements regulations governing the protection of the health and physical welfare of public school students in Delaware.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies? The amended regulation is consistent with, and not an impediment to, the implementation of other state educational policies, and in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies.

9. Is there a less burdensome method for addressing the purpose of the amended regulation? There is not a less

burdensome method for addressing the purpose of this amended regulation.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation? There is no expected cost to the state or to the local school boards of complying with this amended regulation.

805 The School Health Tuberculosis (TB) Control Program

1.0 Definitions

The following words and terms when used in this regulation have the following meaning:

"New School Enterer school enrollee" means any child ~~entering or being admitted to enrolling in~~ enrolling in 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~~ enrollee" 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 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~~ drivers, and student teachers whether compensated or not.

"Tuberculosis Risk Assessment risk assessment" means a formal assessment by a healthcare professional, including the primary healthcare physician, Division of Public Health's TB Elimination Program, and school nurse, to determine possible tuberculosis exposure through the use of a health history or questionnaire.

"Tuberculosis Test test" means a Mantoux skin test, Quantiferon QuantIFERON-TB 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" 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)

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

2.0 School Staff and Extended Services Personnel

2.1 ~~School Staff and Extended Services~~ staff and extended services personnel shall provide the ~~Tuberculosis Test~~ tuberculosis test results from a test administered within the past ~~twelve (12)~~ 12 months during the first ~~fifteen (15)~~ 15 working days of employment.

2.1.1 Tuberculosis ~~Test 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.

2.1.1.1 In such cases, the individual shall complete the ~~Delaware Department of Education TB Health Questionnaire for School Employees~~ Delaware Department of Education TB Health Questionnaire for School Employees or provide, within ~~two (2)~~ 2 weeks, verification from a licensed ~~health care~~ healthcare provider or the Division of Public Health that the individual does not pose a threat of transmitting tuberculosis to students or other staff.

2.1.1.2 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~~ Delaware Department of Education TB Health Questionnaire for School Employees the individual shall complete a symptom screener and provide, within ~~two (2)~~ 2 weeks, verification from a licensed ~~health care~~ healthcare 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~~ 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 change employment within Delaware within a ~~five (5)~~ 5 year period; however, a copy of the result of the latest ~~Tuberculosis Test~~ tuberculosis test shall be provided to the new ~~district or charter school~~ employer within ~~sixty (60)~~ 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~~ Delaware Department of Education TB Health Questionnaire for School Employees or, within ~~two (2)~~ 2 weeks, provide ~~Tuberculosis Test~~ tuberculosis test results administered within the last ~~twelve (12)~~ 12 months.

2.2.4 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~~ the individual shall complete a symptom screener and provide, within ~~two (2)~~ 2 weeks, verification from a licensed ~~health-care~~ healthcare 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)

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

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.

~~3.1.4~~ If the volunteer answers affirmatively to any of the questions, ~~he/she~~ the individual shall complete a symptom screener and provide, within ~~two (2)~~ 2 weeks, verification from a licensed ~~health-care~~ healthcare 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 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)

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

4.0 New School Enters Enrollees

4.1 New ~~school enters~~ school enrollees shall provide tuberculosis screening results from either a ~~Tuberculosis Test~~ tuberculosis test or the results of a ~~Tuberculosis Risk Assessment~~ tuberculosis risk assessment administered within the past ~~twelve (12)~~ 12 months prior to school ~~entry~~ enrollment.

~~4.1.4~~ If the new school ~~enterer~~ enrollee is in compliance with the other school ~~entry~~ enrollment 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~~ parent, guardian, or relative caregiver, or to a new school ~~enterer~~ enrollee who has reached the statutory age of majority (18).

~~4.1.1.1~~ If a student's ~~parent(s), guardian(s) or Relative Caregiver~~ parent, guardian, or relative caregiver, or a student 18 years or older answers affirmatively to any of the questions, ~~he/she~~ the individual shall complete a symptom screener and provide, within ~~two (2)~~ 2 weeks, ~~provide~~ proof of tuberculosis testing results or provide verification from a licensed ~~health-care~~ healthcare 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 All documentation related to the School Health Tuberculosis (TB) Control Program shall be retained in the same manner as other confidential student medical information.

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

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

5.0 Tuberculosis Status Verification and ~~Follow-up~~ Follow-up

5.1 Tuberculosis ~~Status~~ status shall be determined through the use of a ~~Tuberculosis Risk Assessment, Tuberculosis Test~~ tuberculosis risk assessment, tuberculosis test, or other testing, which may include x-ray or sputum culture. Individuals who either refuse the ~~Tuberculosis Test~~ 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~~ healthcare 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 the test was administered), or other ~~Tuberculosis Test~~ 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~~ the individual's school assignment without posing a risk to the school setting.

5.1.2 Verification from a ~~health-care~~ healthcare 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~~ Individuals with a positive ~~Tuberculosis Test~~ 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~~ the individual 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 ~~ten (10)~~ 10 weeks. If an individual's testing and evaluations have not been completed within the 10-week period, the individual is not permitted to remain in school unless the Division of Public Health provides verification that the individual has an evaluation pending and the individual does not pose a threat of transmitting tuberculosis to staff or other students.

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)

27 DE Reg. 645 (03/01/24) (Prop.)

Non regulatory note: See 14 **DE Admin. Code** 930 Supportive Instruction (Homebound) for students who are not permitted to remain in school.