

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))  
14 DE Admin. Code 804

### PROPOSED

### PUBLIC NOTICE

#### Education Impact Analysis Pursuant To 14 Del.C. Section 122(d)

#### 804 Immunizations

##### A. Type of Regulatory Action Required

Amendment to Existing Regulation

##### B. Synopsis of Subject Matter of the Regulation

The Secretary of Education intends to amend 14 DE Admin. Code 804 Immunizations. This regulation is being amended to be in alignment with recommendations made by the Delaware Division of Public Health related to immunizations for students.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before **June 5, 2015** to Tina Shockley, Education Associate, Department of Education, Regulatory Review, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed or obtained at the Department of Education, Finance Office located at the address listed above.

##### C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses the health and safety needs of the school community.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is intended to continue to ensure all students receive an equitable education by decreasing the risk of communicable disease in the school community.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendment will address students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to ensure that all students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making 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 any unnecessary reporting or administrative requirements on decision makers.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the amendment.

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 amendment is consistent with and not an impediment to the implementation of other state educational policies.

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

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

#### 804 Immunizations

##### 1.0 Definitions

"Entering Grade 9 Students" means any child entering Grade 9 or an equivalent school or program for this age.

"School Enterer" means any child between birth and twenty (20) years inclusive entering or being admitted to a Delaware public school district or 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.

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

16 DE Reg. 411 (10/01/12)

## 2.0 Minimum Immunizations Required for All School Enterers

- 2.1 All School Enterers shall have immunizations given up to four days prior to the minimum interval or age and shall include:
- 2.1.1 Four or more doses of diphtheria, tetanus, pertussis (~~DTaP, DTP, or other approved vaccine~~) or a an approved combination of these vaccines (DTaP, DTP, DT, or other). ~~A booster dose of Td or Tdap (adult) is recommended by the Division of Public Health for all students at age 11 or five years after the last DTaP, DTP or DT dose was administered whichever is later.~~ Notwithstanding this requirement:
- 2.1.1.1 A child who received a fourth dose prior to his or her fourth birthday shall have a fifth dose;
- 2.1.1.2 A child, who received the first dose of Td (adult) diphtheria and tetanus containing vaccine as adult Td vaccine at or after age seven, may meet this requirement with only three doses of Td or approved formulation, e.g., Tdap (adult).
- 2.1.2 Three or more doses of inactivated polio virus vaccine (IPV), oral polio vaccine (OPV), or a combination of these vaccines. Notwithstanding this requirement:
- 2.1.2.1 A child who received a third dose prior to his or her fourth birthday shall have a fourth dose.
- 2.1.3 Two doses of measles, mumps and rubella (MMR) vaccine. The first dose should be administered on or after the age of 12 months. The second dose should be administered after the fourth birthday. Individual combination vaccines of measles, mumps, rubella (MMR) may be used to meet this requirement.
- 2.1.3.1 Disease histories for measles, rubella and mumps shall not be accepted unless serologically confirmed.
- 2.1.4 Three doses of Hepatitis B vaccine.
- 2.1.4.1 For children 11 to 15 years old age, two doses of a vaccine approved by the Center for Disease Control (CDC) may be used.
- 2.1.4.2 Titers are not acceptable in lieu of completing the vaccine series and a disease history for Hepatitis B shall not be accepted unless serologically confirmed.
- 2.1.5 ~~Two doses of Varicella vaccine, is required beginning in the 2003-2004 school year with kindergarten. One grade shall be added each year thereafter so that by the 2015-2016 school year all children in grades kindergarten through 12 shall have received the vaccination. Beginning in the 2008-2009 school year new enterers into the affected grades shall be required to have two doses of the Varicella vaccine. The first dose shall be administered on or after the age of twelve (12) months and the second at kindergarten entry into a Delaware public school. A written disease history, provided by the health care provider, parent, legal guardian, Relative Caregiver or School Enterer who has reached the statutory age of majority (18), 14~~ **Del.C. §131(a)(9)**, will be accepted in lieu of the Varicella vaccination. Beginning in the 2008-2009 school year, a disease history for the Varicella vaccination must be verified by a health care provider to be exempted from the vaccination.
- 2.1.5.1 The first dose shall be administered on or after the age of twelve (12) months and the second at kindergarten entry into a Delaware public school.
- 2.1.5.2 A written disease history, provided by the health care provider, will be accepted in lieu of the Varicella vaccination.
- 2.2 Children who enter school prior to age four (4) shall follow current Delaware Division of Public Health recommendations.

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

11 DE Reg. 666 (11/01/07)

16 DE Reg. 411 (10/01/12)

## 3.0 Minimum Immunizations for Entering Grade 9 Students

- 3.1 Beginning in school year 2016-2017, in addition to those in Section 2.0, proof of the below identified immunizations shall be provided by Entering Grade 9 Students. These immunizations are strongly recommended, but not required, for Entering Grade 9 Students in school year 2015-2016:
- 3.1.1 An adolescent booster dose of DTaP or DTP administered at age 11 or five years after the last DTaP, DTP, or DT dose, whichever is later.

3.1.2 One dose of meningococcal vaccine.

3.2 Schools will coordinate with the Division of Public Health to provide services to non-compliant Entering Grade 9 Students.

(Non-regulatory guidance: Please refer to 14 DE Admin. Code 815 Health Examinations and Screenings for health examinations required for entering grade 9 students.)

**3.04.0 Certification of Immunization**

- 34.1 The parent, legal guardian, Relative Caregiver or a School Enterer who has reached the statutory age of majority (18), 14 **Del.C.** §131(a)(9), shall present a certificate specifying the month, day, and year that the immunizations were administered by a licensed health care practitioner.
- 34.2 According to 14 **Del.C.** §131, a principal or person in charge of a school shall not permit a child to enter into school without acceptable evidence of immunization. The parent, legal guardian, Relative Caregiver or a School Enterer who has reached the statutory age of majority (18), 14 **Del.C.** §131(a)(9), shall be notified of this requirement in writing. Within 14 calendar days after notification, evidence must be presented to the school that the basic series of immunizations has been initiated or has been completed.
- 34.3 A school enterer may be conditionally admitted to a Delaware school district by presenting a statement from a licensed health care practitioner who specifies that the School Enterer has received at least:
  - 34.3.1 One dose of DTaP, or DTP, or DT; and
  - 34.3.2 One dose of IPV or OPV; and
  - 34.3.3 One dose of measles, mumps and rubella (MMR) vaccine; and
  - 34.3.4 The first dose of the Hepatitis B series; and
  - 34.3.5 One dose of Varicella vaccine ~~as per 2.5.~~
  - 4.3.6 One dose of meningococcal vaccine.
- 34.4 ~~14 DE Admin. Code 901 Education of Homeless Children and Youth 6.0 states that "School districts shall ensure that policies concerning immunization, guardianship and birth certificates do not create barriers to the school enrollment of homeless children and youth". To that end, school districts shall as stated in 14 DE Admin. Code "assist homeless children and youth in meeting the immunization requirements".~~
- 34.5 Title In accordance with the provisions of 14 Del.C., Ch. 1, Subchapter III-A Interstate Compact on Education For Children of Military Families (MIC3) and its enabling regulation, provides that a School Enterer or Entering Grade 9 Student who is subject to MIC3 shall be allowed thirty (30) calendar days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, to obtain or to initiate the basic a series of immunizations required by this regulation.
- 34.6 If the School Enterer or Entering Grade 9 Student fails to complete the series of required immunizations, the parent, legal guardian, Relative Caregiver or ~~a school enterer~~ student who has reached the statutory age of majority (18), 14 **Del.C.** §131(a)(9), shall be notified that the School Enterer or Entering Grade 9 Student will be excluded according to 14 **Del.C.** §131.

**10 DE Reg. 1807 (06/01/07)**  
**16 DE Reg. 411 (10/01/12)**

**4.05.0 Lost or Destroyed Immunization Record**

When a student's immunization record has been lost or destroyed by the medical provider who administered the vaccine, the parent, legal guardian, Relative Caregiver or a school enterer who has reached the statutory age of majority (18), 14 **Del.C.** §131(a)(9), shall sign a written statement to this effect and must obtain at least one dose of each of the immunizations as identified in ~~3.3~~ 4.3. Evidence that the vaccines were administered shall be presented to the superintendent or his or her designee.

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

**5.06.0 Exemption from Immunization**

- 56.1 Exemption from this requirement may be granted in accordance with 14 **Del.C.** §131 which permits approved medical and notarized religious exemptions.
  - 6.1.1 Medical exemptions are reviewed and approved by the Delaware Division of Public Health.
- 56.2 Alternative dosages or immunization schedules may be accepted with the written approval of the Delaware Division of Public Health.

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

**6.07.0 Verification of School Records**

The Delaware Division of Public Health shall have the right to audit and verify school immunization records to determine compliance with the law.

**1 DE Reg. 1808 (05/01/98)**

**4 DE Reg. 1515 (03/01/01)**

**5 DE Reg. 2295 (06/01/02)**

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

**7.08.0 Documentation**

78.1 School nurses shall record and maintain documentation of each student's immunization status.

78.2 Each student's immunization record shall be included in the Delaware Immunization Registry.

**1 DE Reg. 1808 (05/01/98)**

**4 DE Reg. 1515 (03/01/01)**

**5 DE Reg. 2295 (06/01/02)**

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

**16 DE Reg. 411 (10/01/12)**

**18 DE Reg. 832 (05/01/15) (Prop.)**