

# 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

### FINAL

### 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), 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.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on March 1, 2024. The Department of Education did not receive any written comments concerning the proposed amendments.

#### II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 805 The School Health Tuberculosis (TB) Control Program to clarify the tuberculosis screening and testing requirements for school staff and extended services personnel, volunteers, and new enrollees in Delaware public schools.

#### III. ASSESSMENT OF IMPACT

Pursuant to 29 **Del. C.** §10118(b)(3) this regulation has no impact on the achievement of the State's greenhouse gas emissions reduction targets or the State's resiliency to climate change. Such assessment is not practical for this regulation.

#### IV. 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 (TB) Control Program. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 805 The School Health Tuberculosis (TB) Control Program attached hereto as *Exhibit "A"* is hereby amended.

#### V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 805 The School Health Tuberculosis (TB) Control Program amended hereby shall be in the form attached hereto as *Exhibit "A"*, and said regulation shall be cited as 14 **DE Admin.** 805 The School Health Tuberculosis (TB) Control Program in the *Administrative Code of Regulations* for the Department of Education.

#### VI. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on May 7, 2024. 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 7th day of May 2024.  
Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 7th day of May 2024.

#### 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~~ 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.

~~2.1.1.4~~ 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~~ 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.

~~3.1.1~~ 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 ~~Enterers~~ Enrollees**

4.1 New ~~school enterers~~ 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.

4.1.1 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. 971 (06/01/24) (Final)**

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