

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(22) and 406A (14 **Del.C.** §§122(b)(22) and 406A)

14 **DE Admin. Code** 815

PROPOSED

PUBLIC NOTICE

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

815 Health Examinations and Screening

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) and 406A, the Delaware Department of Education ("Department") developed amendments to 14 **DE Admin. Code** 815 Health Examinations and Screening. The regulation sets forth the requirements for health examinations and screenings for students seeking to enroll or enrolled in Delaware public schools. The proposed amendments include adding a definition of oral health screening to Section 2.0 and adding subsection 4.4, which concerns oral health screenings. The proposed amendments are consistent with H.S. 1 for H.B. 83 of the 152nd General Assembly, which was signed into law on August 3, 2023 and effective for the 2024-2025 school year. In addition, the proposed amendments include adding Section 1.0, which specifies the statutory authority for and content of the regulation; revising Section 2.0; and clarifying subsection 4.3, which concerns lead screenings; and striking requirements that pertained to the 2021-2022 school year.

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 July 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 health examinations and screenings for students 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 health examinations and screenings for students 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 adding oral health to the required screenings for students. Delaware's addition of oral health screenings to mandatory health examinations is a proactive step to identify and address dental issues early, ensuring better health outcomes for students. Recognizing oral health as vital to overall wellness, this amendment reflects the state's commitment to holistic well-being and equitable school health services.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses health examinations and screenings for students 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. The proposed changes are a result of H.S. 1 for H.B. 83 of the 152nd General Assembly, which was signed into law on August 3, 2023 and effective for the 2024-2025 school year.

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. The proposed changes are a result of H.S. 1 for H.B. 83 of the 152nd General Assembly, which was signed into law on August 3, 2023 and effective for the 2024-2025 school year.

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.

815 Health Examinations and Screening

1.0 Content

Pursuant to 14 Del.C. §§122(b)(2) and 406A, this regulation sets forth the health examination and screening requirements for students seeking to enroll or enrolled in Delaware public schools.

2.0 Definitions

The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise:

~~"Delaware School Health Examination Form"~~ means the age appropriate form developed by the Delaware Department of Education or a substantially similar form for documenting information from the parent, guardian or relative caregiver, and healthcare provider on the student's health status.

~~"Delaware Interscholastic Athletic Association (DIAA) Pre-Participation Physical Evaluation Form"~~ means the form approved by the DIAA.

~~"Health Examination examination"~~ means the medical examination done by a ~~Healthcare Provider~~ healthcare provider to determine health status and conditions.

~~"Healthcare Provider provider"~~ means a currently licensed physician, advanced practice nurse, nurse practitioner, or physician's assistant.

~~"Lead Screening screening"~~ means a capillary blood lead test, including where a drop of blood is taken from a finger or heel of the foot (16 Del.C. Ch. 26 §2601(b)(5)).

~~"Local Education Agency" or "LEA"~~ means a public board of education or other public authority legally constituted within Delaware for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a school district, or for a combination of school districts. The term includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

~~"Oral health screening"~~ means the screening done by a dental hygienist or dentist coordinated with the school by the Bureau of Oral Health and Dental Services.

~~"School Enterer enterer"~~ means any child between birth and ~~twenty (20)~~ 20 years inclusive enrolling and attending 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 or territories, and children entering from non-public schools.

~~"Screenings" "Screening" or "screenings"~~ means the vision, hearing, and postural ~~gait screening~~ gait, lead, and oral health screenings performed by the school nurse or other qualified healthcare professional, as provided in this regulation.

15 DE Reg. 838 (12/01/11)

25 DE Reg. 410 (10/01/21)

25 DE Reg. 755 (02/01/22)

3.0 Health Examinations

~~2.4~~ 3.1 All public school students shall have ~~two (2)~~ 2 health examinations, as provided in this section, that have been administered by a healthcare provider.

~~2.4.4~~ 3.1.1 The first health examination shall have been done within the ~~two (2)~~ 2 years prior to enrollment into a Delaware public school.

2.1.1.4 Within ~~thirty (30)~~ 30 calendar days after enrollment, any public school student who has not complied with the health examination requirement shall have received the health examination or shall have a documented appointment with a healthcare provider for the health examination. If this documentation is not provided within ~~this thirty (30)~~ 30 calendar days, the student shall be excluded from school until this documentation is received.

~~2.1.2~~ 3.1.2 The second required health examination shall be done within the ~~two (2)~~ 2 years prior to entry into grade 9.

2.1.2.1 Within ~~thirty (30)~~ 30 calendar days after entry, any grade 9 student who has not complied with the second health examination requirement shall have received the health examination or shall have a documented appointment with a healthcare provider for the health examination. If this documentation is not provided within these ~~thirty (30)~~ 30 calendar days, the student shall be excluded from school until this documentation is received.

~~2.1.3~~ 3.1.3 Notwithstanding subsections ~~2.1.1.1 and 2.1.2.1~~ 3.1.1 and 3.1.2, all students must meet the requirements under 14 **DE Admin. Code** 804 Immunizations.

2.1.4 3.1.4 The requirement for the health examination may be waived for students whose parent, guardian or relative caregiver as defined in 14 **Del.C.** §202(f), or the student if 18 years or older, or an unaccompanied homeless youth (as defined by 42 USC §11434a) presents a written declaration acknowledged before a notary public, that because of individual religious beliefs, they reject the concept of health examinations.

~~2.1.5~~ 3.1.5 Notwithstanding the above, a second health examination shall not be required if the first health examination is within ~~two (2)~~ 2 years of entering Grade grade 9.

~~2.1.6~~ 3.1.6 The Delaware School Health Examination Form or the DIAA Delaware Interscholastic Athletic Association Pre-Participation Physical Evaluation Form may be used as documentation of the health examination. For the purpose of this regulation, the "Delaware School Health Examination Form" means the age-appropriate form developed by the Delaware Department of Education or a substantially similar form for documenting information from the parent, guardian or relative caregiver, and healthcare provider on the student's health status. In addition, a district or charter school may accept a health examination or evaluation documentation on a form which includes, at a minimum, health history, immunizations, results of medical tests and screenings, medical diagnoses, prescribed medications and treatments, and healthcare plans.

~~2.1.7~~ 3.1.7 The school nurse shall record all findings within the student's electronic health record (see 14 **DE Admin. Code** 811) and maintain the original copy in the child's medical file.

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

15 DE Reg. 838 (12/01/11)

16 DE Reg. 283 (09/01/12)

25 DE Reg. 410 (10/01/21)

25 DE Reg. 755 (02/01/22)

Non regulatory note: See 14 **DE Admin. Code** ~~1008.3 and 14 DE Admin. Code 1009.3~~ 1034 DIAA Health and Safety Requirements for physical or health examination requirements associated with participation in interscholastic sports.

3.0 4.0 Screening

3.1 4.1 Vision and Hearing Screening

3.1.4 4.1.1 Each public school student in kindergarten and in grades 2, 4, 7 and grades 9 or 10 shall receive both a vision screening and a hearing screening by January 15th of each school year. ~~For the 2021-2022 school year only, the required screenings shall be completed by April 15, 2022 and not required to be completed by January 15, 2022.~~

3.1.4.1 4.1.1.1 In addition to the screening requirements in subsection ~~3.1.4~~ 4.1.1, screening shall also be provided to school enterers, students referred by a teacher or an administrator, and students considered for special education.

3.1.4.1.1 4.1.1.2 Driver education students shall have a vision screening within ~~one (1)~~ 1 year of their in-car driving hours.

3.1.2 4.1.2 The school nurse shall record the results of the vision and hearing screenings within the student's electronic health record (see 14 **DE Admin. Code** 811) and shall notify the parent, guardian or relative caregiver as defined in 14 **Del.C.** §202(f), or the student if 18 years or older, or an unaccompanied homeless youth (as defined by 42 USC §11434a) if the student has a suspected problem.

3.2 4.2 Postural and Gait Screening

~~3.2.4 4.2.1~~ Each public school student in grades 5 through 9 shall receive a postural and gait screening by December 15th of each school year. ~~For the 2021-2022 school year only, the required screening shall be completed by February 15, 2022 and not required to be completed by December 15, 2021.~~

~~3.2.2 4.2.2~~ The school nurse shall record the findings of the postural and gait screening within the student's electronic health record (see 14 **DE Admin. Code** 811) and shall notify the parents, guardian or relative caregiver as defined in 14 **Del.C.** §202(f), or the student if 18 years or older, or an unaccompanied homeless youth (as defined by 42 USC §11434a) if a suspected deviation has been detected.

~~3.2.2.1~~ If a suspected deviation is detected, the school nurse shall refer the student for further evaluation through an on-site follow up evaluation or a referral to the student's healthcare provider.

~~3.3~~ 4.3 Lead Screening

~~3.3.4 4.3.1~~ School enterers at kindergarten or at age 5 or prior, shall be required to provide documentation of lead screening as per 16 **Del.C.** ~~Ch. 26 §2603.~~

~~3.3.1.1~~ ~~For school enterers in kindergarten, documentation of lead screening shall be provided within sixty (60) Except in the case of enrollment in kindergarten, the screen may be done 60 calendar days of the date of enrollment. Failure to provide the required documentation shall result in the child's exclusion from school until the documentation is provided.~~

~~3.3.1.2~~ Exemption from this requirement may be granted for religious exemptions, per 16 **Del.C.** §2603.

~~3.3.1.3~~ The Childhood Lead Poisoning Prevention Act, 16 **Del.C.** Ch. 26, requires all healthcare providers to order lead screening for children at or around the age of 12 months.

~~3.3.1.4~~ For school year 2021-2022, children entering first grade, who did not provide documentation of the results of lead screening when enrolling in kindergarten for the 2020-2021 school year, shall provide such documentation within sixty (60) calendar days of the date of the beginning of the 2021-2022 school year. Failure to provide the required documentation shall result in the child's exclusion from school until documentation is provided.

~~3.3.2 4.3.2~~ The school nurse shall document the lead screening within the student's electronic health record. See 14 **DE Admin. Code** 811.

Non-regulatory note: The Childhood Lead Poisoning Prevention Act, 16 Del.C. Ch. 26, requires healthcare providers to order lead screening for children at or around 12 and 24 months of age. A child is not required to undergo the screening if the child's parent or guardian objects on the grounds that the screening conflicts with the parent's or guardian's religious beliefs. 16 Del.C. §2602(e).

4.4 Oral Health Screening

4.4.1 Beginning with the 2024-2025 school year, and for each school year thereafter subject to 14 Del.C. §4123(f), each school, through the Bureau of Oral Health and Dental Services shall provide an oral health screening to each student enrolled in kindergarten by the last student attendance day of the school year.

4.4.2 The school shall record the results of the oral health screening within the student's electronic health record.

4.4.3 If a student fails the oral health screening, the school shall notify the student's parent, guardian, or relative caregiver.

Non-regulatory note: Pursuant to 14 Del.C. §4123(e), the Bureau of Oral Health and Dental Services is required to inform a parent or guardian of each student's oral health status by sending home, with the student, a copy of the dental screening results and to refer students who need a dental referral or restorative care to a dentist.

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

15 DE Reg. 838 (12/01/11)

16 DE Reg. 283 (09/01/12)

25 DE Reg. 410 (10/01/21)

25 DE Reg. 755 (02/01/22)

4.0 5.0 Health Records

If the student is at risk of exclusion because of not meeting the health examinations or immunization documentation requirements, the school nurse may contact the previous Delaware public school nurse to obtain health examinations and immunization records.

25 DE Reg. 410 (10/01/21)

5.0 6.0 Special Considerations

5.4 6.1 School districts and charter schools shall ensure that policies concerning immunization, guardianship and birth certificates do not create barriers to the school enrollment and participation of identified special populations.

6.2 Special consideration should be given to the following populations:

~~5.1.4~~ 6.2.1 Homeless Children and Youth - The federal McKinney-Vento Homeless Assistance Act, 42 USC §11301 et seq., requires immediate enrollment and entry to school, even if students are unable to produce immunization or other medical records. The Delaware public school nurse and the LEA Homeless Education Liaison at the enrolling school shall work together to obtain the necessary immunization records as soon as possible. If a student has not had immunizations, the school nurse and LEA Homeless Education Liaison shall assist homeless children and youth in meeting the immunization requirements.

~~5.1.2~~ 6.2.2 Youth in Foster Care – The federal Elementary and Secondary Education Act of 1965, Section 1111(g)(1)(E) requires that when a determination is made that it is not the best interest of a youth in foster care to remain in the school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment. The enrolling school shall immediately contact the school last attended by any such child to obtain relevant academic and other records. The school nurse and LEA foster care liaison at the enrolling school shall work together to obtain the necessary immunization records as soon as possible.

~~5.1.3~~ 6.2.3 Military-Connected Youth - 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, a school enterer or secondary school student who is subject to MIC3 shall be allowed ~~thirty (30)~~ 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 a series of immunizations required by this regulation. The Delaware public school nurse of the enrolling school shall work with the parent or guardian of the school enterer to obtain the necessary immunization records as soon as possible.

7 DE Reg. 68 (07/01/03)

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

15 DE Reg. 838 (12/01/11)

16 DE Reg. 283 (09/01/12)

23 DE Reg. 208 (09/01/19)

25 DE Reg. 410 (10/01/21)

25 DE Reg. 755 (02/01/22)

27 DE Reg. 934 (06/01/24) (Prop.)