

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

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

### FINAL

#### REGULATORY IMPLEMENTING ORDER

##### 804 Immunizations

#### I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin. Code** 804 Immunizations in order to correct an error with the effective date for the requirement of two doses of the Varicella vaccine for new school enterers.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on Monday, August 27, 2007, in the form hereto attached as *Exhibit "A"*. Comments were received from the Governor's Advisory Council for Exceptional Children and the State Council for Persons with Disabilities that endorses the 2-dose standard and 1-year deferral of implementation given the short notice available to parents.

#### II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 804 Immunizations in order to correct an error with the effective date for the requirement of two doses of the Varicella vaccine for new school enterers. The current date in the regulation "Beginning in the 2007-2008 school year" does not give districts and schools adequate notice to parents. The amendment reflects the change of the effective date to the 2008-2009 school year.

#### III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 804 Immunizations. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 804 Immunizations attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 804 Immunizations 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** 804 Immunizations amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 804 Immunizations 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 October 15, 2007. 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 15<sup>th</sup> day of October 2007.

**DEPARTMENT OF EDUCATION**

Valerie A. Woodruff, Secretary of Education

## 804 Immunizations

### 1.0 Definition

"School Enterer" means any child between birth and twenty (20) years inclusive 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.

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

### 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 combination of these vaccines. 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) at or after age seven may meet this requirement with only three doses of Td or Tdap (adult).

2.1.2 Three or more doses of inactivated polio virus (IPV), oral polio vaccine (OPV), or a combination of these vaccines with the following exception: a child who received a third dose prior to the 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 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 ~~2007-2008~~ 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.

2.2 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)**

### 3.0 Certification of Immunization

3.1 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.

3.2 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.

3.3 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:

3.3.1 One dose of DTaP, or DTP, or DT; and

3.3.2 One dose of IPV or OPV; and

3.3.3 One dose of measles, mumps and rubella (MMR) vaccine; and

3.3.4 The first dose of the Hepatitis B series; and

3.3.5 One dose of Varicella vaccine as per 2.5.

3.4 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".

3.5 If the school enterer fails to complete the series of required immunizations 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 that the School Enterer will be excluded according to 14 **Del.C.** §131.

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

#### **4.0 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. Evidence that the vaccines were administered shall be presented to the superintendent or his or her designee.

**10 DE Reg. 18707 (06/01/07)**

#### **5.0 Exemption from Immunization**

5.1 Exemption from this requirement may be granted in accordance with 14 **Del.C.** §131 which permits approved medical and notarized religious exemptions.

5.2 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)**

#### **6.0 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)**

#### **7.0 Documentation**

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

7.2 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)**

**11 DE Reg. 666 (11-01-07)(Final)**