

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122 (14 Del.C. §122)  
14 DE Admin. Code 718

### PROPOSED

### PUBLIC NOTICE

#### Education Impact Analysis

#### 718 Health Examinations for Employees of School Districts, Charter Schools, and Alternative Programs

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

Repeal of Existing Regulation

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

Pursuant to 14 Del.C. §122, the Secretary of Education intends to repeal 14 DE Admin. Code 718 Health Examinations for Employees of School Districts, Charter Schools and Alternative Programs. This regulation is being repealed as it is unnecessary or unduly burdensome, as these matters are covered by The Americans with Disabilities Act of 1990 as amended ("ADA").

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before November 4, 2019 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to [DOEregulations.comment@doe.k12.de.us](mailto:DOEregulations.comment@doe.k12.de.us). A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or obtained at the Department of Education's Office of the Secretary, located at the address above.

##### C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The repeal of Regulation 718 will not impact student achievement.
2. Will the amended regulation help ensure that all students receive an equitable education? The repeal of Regulation 718 will not impact students receiving an equitable education.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The repeal of Regulation 718 will not impact students' health and safety.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The repeal of Regulation 718 will not impact students' legal rights.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The repeal of Regulation 718 will not impact the necessary authority and flexibility of 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 repeal of Regulation 718 will remove an unnecessary reporting or administrative requirement or mandate.
7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The repeal of Regulation 718 will not alter the authority and accountability for addressing employee health.
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 repeal of Regulation 718 will not impact state educational policies.
9. Is there a less burdensome method for addressing the purpose of the regulation? Yes, the ADA addresses the purposes of Regulation 718.
10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to repealing Regulation 718.

#### 718 Health Examinations for Employees of School Districts, Charter Schools, and Alternative Programs

##### ~~4.0 Required Physician's Certification~~

~~At initial employment, all employees of school districts, charter schools and alternative programs shall provide a physician's certification that he or she is free (a) from any medical condition which would prevent the applicant from~~

performing the essential functions of the applicant's job and (b) free from any medical condition which cannot be remedied through reasonable accommodations. The physician's certification, along with any other medical information, shall be retained in an individual's file kept in accordance with any Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirement and separate from the individual's personnel file.

Non regulatory note: See 14 ~~DE Admin. Code~~ 805 The School Health Tuberculosis Control Program for TB screening and testing. Also, see 21 ~~Del.C.~~ §2708 and 14 ~~DE Admin. Code~~ 1105 for requirements for school bus drivers.

**3 DE Reg. 526 (10/01/99)**

**8 DE Reg. 702 (11/01/04)**

**13 DE Reg. 640 (11/01/09)**

**23 DE Reg. 265 (10/01/19) (Prop.)**