

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** 815

PROPOSED

PUBLIC NOTICE

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

815 Health Examinations and Screening

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del. C.** § 3003A, the Secretary of Education intends to amend 14 **DE Admin. C.** 815 Health Examinations and Screening. This regulation is being amended to add language regarding COVID-19 mitigation and prevention in Delaware public and private schools. Additionally, outdated language regarding health examination requirements in previous school years was removed. The regulation is also being edited to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before November 1, 2021 to 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. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, 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 does not specifically address the improvement of 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 will help ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected. The amended regulation specifically addresses the challenge of reducing the transmission of COVID-19 in schools and child care centers.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help 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. The Secretary of Education takes this action to promote student safety and a consistent approach across schools and child care centers.

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 or mandates on decision makers. The Secretary of Education takes this action to promote student safety and a consistent approach across schools and child care centers.

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

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.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.

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 implementing this amended regulation.

815 Health Examinations and Screening

1.0 Definitions

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

"Delaware School Health Examination Form" means the ~~age-appropriate~~ age-appropriate form developed by the Delaware Department of Education for documenting information from the parent, guardian or ~~Relative Caregiver~~ 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.

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

"Health Examination or Health Evaluation Examination" or "Health Evaluation" means the medical or nursing examination or evaluation and assessment of the body by a healthcare provider to determine health status and conditions.

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

2.0 Health Examinations

2.1 All public school students shall have two (2) health examinations, as provided in this section, that have been administered by a healthcare provider. The first health examination shall have been done within the two (2) years prior to entry into school. ~~Beginning in school year 2012-2013, the second health examination shall be strongly recommended and not required for entering grade 9 students. Beginning in school year 2013-2014, the second health examination shall be required for entering grade 9 students.~~ The second required health examination shall be done within the two (2) years prior to entry into grade 9. Within thirty calendar days after entry, new enterers and grade 9 students who have not complied with the second health examination requirement shall have received the health examination or shall have a documented appointment with a licensed ~~health care~~ healthcare provider for the health examination. ~~For purposes of this regulation only, students entering grades 10, 11 or 12 in the 2013-2014 school year shall not be required to have the second health examination or evaluation.~~

2.1.1 The requirement for the health examination may be waived for students whose parent, guardian or ~~Relative Caregiver~~ relative caregiver, or the student if 18 years or older, or an unaccompanied homeless youth (as defined by ~~42 USC 11434a~~) 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.

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

2.1.3 The Delaware School Health Examination Form or the DIAA Pre-Participation Physical Evaluation ~~form~~ Form may be used as documentation of the health examination. 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 on medical ~~testings~~ tests and screenings, medical diagnoses, prescribed medications and treatments, and healthcare plans.

2.1.4 The school nurse shall record all findings within the student's electronic medical 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)

Non regulatory note: See 14 DE Admin. Code 1008.3 and 14 DE Admin. Code 1009.3 for physical or health examination requirements associated with participation in sports.

3.0 Screening

3.1 Vision and Hearing Screening

3.1.1 Each public school student in kindergarten and in grades 2, 4, 7 and grades 9 or 10 shall receive a vision and a hearing screening by January 15th of each school year.

3.1.1.1 In addition to the screening requirements in subsection 3.1.1, screening shall also be provided to new enterers, students referred by a teacher or an administrator, and students considered for special education.

3.1.1.1.1 Driver education students shall have a vision screening within a one (1) year prior to of their in car in-car driving hours.

3.1.2 The school nurse shall record the results within the student's electronic medical record and shall notify the parent, guardian or ~~Relative Caregiver~~ relative caregiver or the student if 18 years or older, or an unaccompanied homeless youth (as defined by ~~42 USC 11434a~~) 42 USC §11434a) if the student has a suspected problem.

3.2 Postural and Gait Screening

3.2.1 Each public school student in grades 5 through 9 shall receive a postural and gait screening by December ~~45th~~ 15th of each school year.

3.2.2 The school nurse shall record the findings within the student's electronic medical record (see 14 **DE Admin. Code** 811) and shall notify the parents, guardian or ~~Relative Caregiver~~ relative caregiver, or the student if 18 years or older, or an unaccompanied homeless youth (as defined by ~~42 USC 11434a~~) 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~~ on-site follow up evaluation or a referral to the student's ~~health care~~ healthcare provider.

3.3 Lead Screening

3.3.1 Children who enter school at kindergarten or at age 5 or prior, shall be required to provide documentation of lead screening as per 16 **Del.C.** Ch. 26.

3.3.1.1 For children enrolling in kindergarten, documentation of lead screening shall be provided within sixty (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 ~~health care~~ healthcare providers to order lead screening for children at or around the age of 12 months ~~of age~~.

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

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)

4.0 Reserved.

5.0 Reserved.

6.0 COVID-19 Mitigation and Prevention

6.1 Schools

6.1.1 All schools that serve students kindergarten through twelfth grade shall require mask use by all students, faculty, staff, and visitors inside school buildings, regardless of vaccination status.

6.1.2 Persons who have a medical condition or disability that prevents that person from wearing a mask can request a reasonable accommodation from the school.

6.1.3 Masks are not required in school buildings:

6.1.3.1 When seated at a table to eat or drink.

6.1.3.2 When asleep.

6.1.3.3 When engaged in any activity that makes wearing a mask not feasible, such as swimming.

6.1.3.4 When a person is in a personal space (i.e., single office) and others outside of that person's household are not present.

6.1.3.5 When outdoors.

6.1.3.6 When students are not in the building, except when students travel on school buses.

6.1.4 All schools that provide bus service to and from school shall require mask use by all students, faculty, staff, and visitors riding school buses, regardless of vaccination status.

6.2 Child Care Facilities

6.2.1 All persons or associations conducting child care as defined in 14 Del.C. §3002A(1) shall recommend mask use by children ages 2 through pre-kindergarten and shall require mask use by children in kindergarten through twelfth grade, staff, family members, and visitors inside the child care facility, regardless of vaccination status.

6.2.2 Persons who have a medical condition or disability that prevents that person from wearing a mask can request a reasonable accommodation from the child care facility.

6.2.3 Masks are not required in child care facilities:

6.2.3.1 When seated at a table to eat or drink.

6.2.3.2 When asleep.

6.2.3.3 When engaged in any activity that makes wearing a mask not feasible, such as swimming.

6.2.3.4 When a person is in a personal space (i.e., single office) and others outside of that person's household are not present.

6.2.3.5 When outdoors.

6.2.3.6 When children are not in the building.

6.2.4 All child care facilities that provide bus service to and from the child care facility shall recommend mask use by children ages 2 through pre-kindergarten and shall require mask use by children in kindergarten through twelfth grade, faculty, staff, and visitors riding school buses, regardless of vaccination status.

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. 363 (10/01/21) (Prop.)