

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

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

PROPOSED

Education Impact Analysis Pursuant To 14 Del.C. Section 122(D)

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

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education intends to amend 14 DE Admin. Code 718 Health Examinations for Employees of School Districts, Charter Schools, and Alternative Programs. There is a minor formatting change for additional clarity and an amendment that requires medical information on employees to be maintained in accordance with any Health Insurance Portability and Accountability (HIPAA) requirements and separated from the individual's personnel file.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before October 2, 2009 to Susan Haberstroh, Education Associate, Regulation Review, Department of Education, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation is available from the above address or may be viewed at the Department of Education business office.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses health examinations for employees of school districts, charter schools, and alternative programs and does not specifically address student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation addresses health examinations for employees of school districts, charter schools, and alternative programs and does not specifically address equitable education for all students.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses health examinations for employees of school districts, charter schools, and alternative programs and does not specifically address health and safety of students.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses health examinations for employees of school districts, charter schools, and alternative programs and does not specifically address student legal rights, but rather educator rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation addresses health examinations for employees of school districts, charter schools, and alternative programs and preserves 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 amended regulation addresses health examinations for employees of school districts, charter schools, and alternative programs and does not place the unnecessary reporting or administrative requirements upon decision makers at the local board or school levels.

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 where the decision making authority or accountability is located.

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 addresses health

examinations for employees of school districts, charter schools, and alternative programs and does not specifically address the core academic areas.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method of addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no additional costs because of the amendment to this regulation.

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

1.0 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 **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 (10/1/99)

8 DE Reg. 702 (11/1/04)

13 DE Reg. 351 (09/01/09) (Prop.)