

# 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

Reauthorization of Existing Regulation

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

Pursuant to 14 **Del.C.** §122(b)(2), the Secretary of Education intends to reauthorize 14 **DE Admin. Code** 815 Health Examinations and Screening. The Department has reviewed the regulation in order to comply with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring bases every four years and concluded that the regulation should be readopted without any changes.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before August 5, 2019 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](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, located at the address listed above.

##### C. Impact Criteria

1. Will the regulation help improve student achievement as measured against state achievement standards? The reauthorized regulation does not directly address student achievement as measured against state achievement standards.
2. Will the regulation help ensure that all students receive an equitable education? The reauthorized regulation is intended to help ensure all students receive an equitable education.
3. Will the regulation help to ensure that all students' health and safety are adequately protected? The reauthorized regulation helps ensure that all student's health and safety are adequately protected by providing guidelines for student health examinations and screening.
4. Will the regulation help to ensure that all students' legal rights are respected? The reauthorized regulation specifically helps to ensure that all student's legal rights are respected.
5. Will the regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The reauthorized regulation does not change the decision making at the local board and school level.
6. Will the regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The reauthorized regulation does not place any unnecessary reporting or administrative requirements on decision makers.
7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the reauthorized regulation.
8. Will the 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 reauthorized 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 not a less burdensome method for 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 is no expected cost to implementing this reauthorized regulation.

#### 815 Health Examinations and Screening

##### 1.0 Definitions

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

**"Delaware School Health Examination Form"** means the age appropriate form developed by the Delaware Department of Education for documenting information from the parent, guardian or Relative Caregiver and healthcare provider on the student's health status.

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

**"Health 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 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 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 required health examination shall be done within the two 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 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, 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.

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

2.1.3 The Delaware School Health Examination Form or the DIAA Pre-Participation Physical Evaluation 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 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 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 year prior to their 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 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 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 15th.

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, 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 health care 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 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)

23 DE Reg. 6 (07/01/19) (Prop.)