

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(2) and 4167 (14 **Del.C.** §§122(b)(2) & 4167)  
14 **DE Admin. Code** 851

### PROPOSED

### PUBLIC NOTICE

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

#### 851 K to 12 Comprehensive Health Education Program

#### A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

#### B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** §§122(b)(2) and 4167, the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 851 K to 12 Comprehensive Health Education Program. This regulation is being amended to include definitions related to drug use prevention and sexual consent to align with Senate Bill 78 of the 150<sup>th</sup> General Assembly, and to indicate that the hours of health education noted herein are minimum requirements.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before December 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 amended regulation intends to help improve student achievement as measured against state achievement standards by creating more informed personal behavior and health decisions.

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.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation will 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.

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 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 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 amendment 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 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 in implementing this amended regulation.

#### 851 K to 12 Comprehensive Health Education Program

#### 1.0 Definitions

In this regulation, the following terms and words shall have the following meaning unless the context clearly indicates

otherwise:

**“Consent”** means the unambiguous, voluntary, and freely given agreement by all participants in each physical act in the course of sexual activity, including respect for personal boundaries. Consent does not include any of the following: (a) the lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another individual in fear or (b) a current or previous dating, social or sexual relationship.

**“Department”** means the Delaware Department of Education.

**“Evidence-based”** or **“Evidence-informed”** means strategies, activities, or approaches, which have been shown through scientific research and evaluation to be effective at preventing or delaying a negative outcome.

**“Promising Practices”** means programs and strategies that have strong quantitative and qualitative data showing positive outcomes, but does not yet have enough research or replication to support generalizable outcomes.

#### **4.02.0 Program Requirements**

**4.12.1** Each school district and charter school shall have a sequential, skill-based K to 12 Comprehensive Health Education Program based on the Delaware Health Education ~~Standards~~ Standards, ~~that establishes The program shall establish~~ a foundation of understanding the relationship between personal behavior and ~~health~~ health, and shall include at a minimum the following:

**4.1.12.1.1** Identification of a ~~district-level~~ district-level person to coordinate the district program and a coordinator in each ~~building school~~ building school to assure compliance at the ~~building school~~ building school level. Each charter school shall identify a person to coordinate the program for the charter school.

**4.1.22.1.2** Appointment of persons such as teachers, parents, school nurses, community leaders, guidance counselors, law enforcement officers and others with expertise in the areas of health, family life and safe and ~~drug-free~~ drug-free schools and communities to serve as members of the ~~district, school or charter school~~ Consolidated Application Planning Committee.

**4.1.32.1.3** The use of the state content standards for health education for grades K to 12 to address the core concepts: tobacco, alcohol and other drugs, injury prevention and safety, nutrition and physical activity, family life and sexuality, personal health and wellness, mental health and community and environmental health with minimum hours of instruction as follows:

**4.1.3.12.1.3.1** In grades K to 4, a minimum of thirty (30) hours in each grade of comprehensive health education and family life education of which at least ten (10) hours, in each grade, must address drug and alcohol education.

**4.1.3.22.1.3.2** In grades 5 and 6, a minimum of thirty five (35) hours in each grade of comprehensive health education and family life education of which at least fifteen (15) hours, in each grade, must address drug and alcohol education.

**4.1.3.32.1.3.3** In grades 7 and 8, separate from other subject areas, a minimum of sixty (60) hours of comprehensive health education and family life education of which at least fifteen (15) hours, in each grade, must address drug and alcohol education. If all of the ~~60 sixty (60)~~ hours are provided in one year ~~at in~~ in grade 7 or 8, an additional fifteen (15) hours of drug and alcohol education must be provided in the other grade.

**4.1.3.42.1.3.4** In grades 9 to 12, one half (1/2) credit of comprehensive health education is required for graduation of which at least fifteen (15) hours of this 1/2 credit course must address drug and alcohol education. In addition, no less than two (2) hours of this 1/2 credit course shall include a cardiopulmonary resuscitation (CPR) instructional program which uses the most current ~~evidence-based~~ Evidence-based emergency cardiovascular care guidelines, and incorporates psychomotor skills learning into the instruction, use of an Automated External Defibrillator (AED) as well as a component on the ~~life-saving~~ life-saving and ~~life-enhancing~~ life-enhancing effects of organ and tissue donation. This 1/2 credit course may be provided in the 9th, 10th, 11th or 12th grade. In each of the remaining three grades, fifteen (15) hours of drug and alcohol education must be provided for all students. ~~CPR instruction, use of an AED and organ/tissue donation awareness shall be integrated into each high school Health Education Program no later than the 2015-2016 school year.~~

**4.1.42.1.4** Inclusion of a comprehensive sexuality education and an HIV prevention program that stresses the benefits of abstinence from ~~high-risk~~ high-risk behaviors.

**4.1.52.1.5** Inclusion of the core concepts of ~~nutrition and~~ nutrition, family life and sexuality ~~implemented through Family and Consumer Science courses.~~

**4.1.62.1.6** Inclusion of research-based fire safety education in grades kindergarten through grade 6.

**4.1.72.1.7** Inclusion of an ~~evidence-based~~ Evidence-based tobacco, alcohol, drug and interpersonal violence prevention program. For purposes of this subsection, Evidence-based may include Promising Practices

and components such as guest speakers, those with lived experience and may be taught through other subjects.

2.1.7.1 The Department shall prepare and distribute on its website a list of Evidence-based and Promising Practices for tobacco, alcohol, drug, and interpersonal violence prevention programs and resources that may be used by school districts or charter schools.

2.1.7.2 A description of the method or methods used to implement and review for the effectiveness of the program or programs shall be reported to the Department no later than August 2021.

2.1.8 Inclusion of Evidence-informed, age- and developmentally-appropriate instruction on the meaning of Consent and respecting others' personal boundaries shall be provided by each school district and charter school serving one (1) or more of the grades 7 through 12 no later than the 2020-2021 school year. For the purposes of this subsection, Evidence-informed may include Promising Practices and components such as guest speakers, those with lived experience and may be taught through other subjects.

4.1.82.1.9 ~~The use of effective instructional methods as demonstrated in sound research~~ Inclusion of instructional methods that encourage student engagement in the core concepts and skills inclusive of accessing information, self management, analyzing internal and external influences, interpersonal communication, decision making and making, goal setting and advocacy.

4.1.92.1.10 A description of the ~~method(s)~~ method or methods used to implement and evaluate the effectiveness of the program shall be reported ~~upon request of~~ to the Department annually by November 15.

**3 DE Reg. 1073 (02/01/00)**

**8 DE Reg. 1012 (01/01/05)**

**13 DE Reg. 935 (01/01/10)**

**17 DE Reg. 425 (10/01/13)**

**18 DE Reg. 369 (11/01/14)**

**23 DE Reg. 353 (11/01/19) (Prop.)**