

May 28, 2004

The Honorable Valerie Woodruff
Secretary of Education
401 Federal Street
Dover, DE 19901

RE: 7 DE Reg. 1393 [TB Regulations]

Dear Secretary Woodruff:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOEs) proposal to amend its *School Health Tuberculosis (TB) Control Program* published as 7 DE Reg. 1393 in the May 1, 2004 issue of the Register of Regulations. New staff and contractors would be required to submit skin test results within 15 days of employment and complete a screening questionnaire every 5 years. This represents a "weakening" of existing standards which require actual retesting every 5 years. Volunteers would be required to complete the screening questionnaire prior to assignment and every 5 years thereafter. Students would be required to submit skin test results when first entering school. There is no provision for retesting or completing a questionnaire at a later time. SCPD has the following observations.

First, although there is a religious exemption to skin testing for students, there is no analog for staff and contractors. Compare §3.2.4 with §1.0. It is unclear if this is intentional or an inadvertent oversight.

Second, the student waiver of skin testing for religious reasons [§3.2.4] may result in no screening whatsoever, potentially exposing other students and staff to TB. It would be preferable to require completion of the questionnaire which is otherwise discretionary. See §3.2.2.

Third, since exclusion from school is authorized [§4.4], the DOE may wish to include a note or cross reference to the homebound regulations. Otherwise, students may simply be "excluded" based on the TB regulatory standards.

Fourth, §4.0 could be improved in the context of refusal to be tested or treated for religious reasons. The Code appears to authorize refusal to be treated based on religious

tenets, but such refusal may result in quarantine. See 16 Del.C. §530. If a “once-positive” person refuses retesting, treatment, or evaluation by a health care provider, the person would ostensibly be unable to meet §§4.3.2 and 4.4 and could theoretically be excluded from school forever.

Thank you for your consideration and please contact SCPD if you have any questions regarding our observations on the proposed regulations.

Sincerely,

Rita Landgraf, Chairperson
State Council for Persons with Disabilities

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