



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney
Governor

John McNeal
SCPD Director

June 29, 2022

Department of Education
Office of the Secretary
Attn: Regulation Review
401 Federal Street, Suite 2
Dover, Delaware 19901

RE: 25 DE Reg. 1067 [Proposed DDOE Regulations for Family and Large Family Child Care Homes (June 1, 2022)]

The State Council for Persons with Disabilities (SCPD) has reviewed the Delaware Department of Education's ("DDOE") proposed regulations regarding blood lead screening for family and large family child care homes. Other proposed revisions involving family and large family child care homes include:

- Requiring training for volunteers to work at least five days or 40 hours per year to complete OCCL's approved Health and Safety Training;
- Requiring that there are better procedures in place for children including monitoring the entrance of the home or phone, email, or other communication methods used by the home to ensure that the child is released from care when requested;
- Removing the requirement regarding completion of the Department's approved developmental and social emotional screening tool until legislation is clarified;
- Complying with the Delaware's Lead Poisoning Prevention Act - blood lead screening for children at or around 24 months in addition to screening at or around 12 months, and proof of single blood lead screening after 24 months for all children including school-age if they were not conducted around or at age 12-24 months and;
- Not allowing semi-solid food to be introduced at infancy until they are 6 months old.

The proposed regulation was published as 25 DE Reg. 1067 in the June 1, 2022 issue of the Register of Regulations. SCPD has the following observations and recommendations.

Lead-related proposals:

The regulations currently require that “within one month of starting care, each child’s file [shall] contain a health appraisal” which must be updated every 13 months. The proposed revisions introduce a new component to the health appraisal, now requiring that the health appraisal include “[p]roof of single blood lead screening after age 24 months for all children including school-age, if blood lead tests were not conducted at or around age 12 months and at or around age 24 months.” DHSS is in the process of revising their regulations regarding lead testing requirements for schools and daycare facilities, but has a slightly different timeline and set of requirements for updating a child’s health file (see footnote).¹

Further, there are some differences between the exemptions for blood lead testing allowed under these proposed regulations and the current Delacare regulations for Early Care and Education and School-Age Centers. The Family and Large Family Child Care Homes would require “a notarized affidavit of religious belief” to exempt a child from the blood screening lead test requirement. The current regulations for Early Care and Education and School-Age Centers require only “a certificate signed by the parent or guardian stating that the screening is contrary to the parent’s or guardian’s religious beliefs is required for this exemption” (no notarization required).² Further the Early Care regulations state that “[a] licensee does not need a child’s health appraisal [presumably including the health appraisal requirement for lead testing documentation] if other federal or State laws, such as specified in the McKinney-Vento Homeless Assistance Act, require the center to admit a child without one.” Neither the current nor proposed Family and Large Family Child Care Home regulations include that broader health appraisal exemption.

SCPD endorses the proposed regulations, but recommends the standards for Family and Large Family Child Care Homes align with finalized DPH regulations regarding lead testing and the current regulations for Early Care and Education and School Age Centers. SCPD also recommends that these regulations be consistent with what DPH is proposing so that there is no confusion among families and child care providers.

¹ See Proposed DPH Amendments to 16 DE Admin. Code 4459A, 25 Delaware Register of Regulations 1006 (May 1, 2022) (“10.2 Except in the case of enrollment in kindergarten, the screening may be done within 60 calendar days of the date of enrollment.

10.3 A child’s parent or guardian must provide one of the following to the administrator of a childcare facility, public or private nursery school, preschool, or kindergarten:

10.3.1 A statement from the child’s primary health care provider that the child has received a blood test (screening) for lead poisoning;

10.3.2 A certificate signed by the parent or guardian stating that the blood test (screening) is contrary to the parent’s or guardian’s religious beliefs;

or 10.3.3 Certified documentation of the child’s blood lead analysis, as specified in this regulation, administered in connection with the 12-month visit and 24-month visit to the child’s health care provider not later than:

10.3.3.1 30 calendar days from the 12-month visit or 24-month visit;

or 10.3.3.2 30 calendar days from first entry into the program or system.”)

<https://regulations.delaware.gov/register/may2022/proposed/25%20DE%20Reg%201006%2005-01-22.htm>

² DELACARE Regulations for Early Care and Education and School-Age Centers,

https://fvacg197xz747ur7h3vi44up-wpengine.netdna-ssl.com/wp-content/uploads/2022/06/DELACARE_Regs_EarlyCare_School_Age_Centers_-June_-2022.pdf,

pg. 48

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

Sincerely,



Terri Hancharick, Chairperson
State Council for Persons with Disabilities

cc: The Honorable Susan Bunting, Department of Education
Mary Ann Mieczkowski, Department of Education
Linnea Bradshaw - Executive Director of the PSB
Tracy Poitras - PSB
Kathleen Smith - Professional Standards Board
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