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OFFICE OF THE
SECRETARY

MURIEL BOWSER
MAYOR

20 2017

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
John A. Wilson Bldg.
1350 Pennsylvania Ave., N.W., Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for consideration and enactment by the Council is the "Communicable Diseases Contracted by Employees Regulations Approval Resolution of 2017".

If enacted, the proposed resolution will repeal Section 1023 of Chapter 10 (General Personnel Policies) of Subtitle E (Original Title 5) of Title 5 (Education) of the District of Columbia Municipal Regulations (DCMR), and replace it with a new Section 1023. This amendment is necessary to update existing Communicable Diseases Contracted by Employees regulations to align with Department of Health regulations - Communicable Diseases Contracted by Students, Final Rulemaking published at 61 DCR 12274 (November 28, 2014).

The rulemaking is authorized by section 103 of the District of Columbia Public Education Reform Amendment Act of 2007 (Act), effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-172) (2012 Repl.)), and Mayor's Order 2007-186, dated August 10, 2007. The Act also requires a 45-day period for review by the Council for any proposed regulations.


I urge the Council to take prompt and favorable action on the "Communicable Diseases Contracted by Employees Regulations Approval Resolution of 2017".

Sincerely,

A handwritten signature in blue ink that reads "Muriel Bowser".

Muriel Bowser

Enclosure


Chairman Phil Mendelson
at the request of the Mayor

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A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Mayor, introduced the following resolution, which was referred to the Committee on _____.

To approve the proposed rules to implement the District of Columbia Public Education Reform Amendment Act of 2007 to amend Chapter 10 of Subtitle E of Title 5 of the District of Columbia Municipal Regulations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Communicable Diseases Contracted By Employees Regulations Approval Resolution of 2017”.

Sec. 2. Pursuant to section 103 of the District of Columbia Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-172), the Council approves the proposed rulemaking adopted by the Chancellor of the District of Columbia Public Schools that would amend Section 1023 of Chapter 10 of Subtitle E of Title 5 of the District of Columbia Municipal Regulations to repeal Section 1023 of Chapter 10 (General Personnel Policies) of Subtitle E (Original Title 5) of Title 5 (Education) of the District of Columbia Municipal Regulations (DCMR), and replace it with a new Section 1023. This amendment is

1 necessary to update existing Communicable Diseases Contracted by Employees
2 regulations to align with Department of Health regulations - Communicable Diseases
3 Contracted by Students, Final Rulemaking published at 61 DCR 12274 (November 28,
4 2014).

5 Sec. 3. Fiscal impact.

6 The Council adopts the fiscal impact statement in the committee report as the
7 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home
8 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
9 206.02(c)(3)).

10 Sec. 4. The Council shall transmit a copy of this resolution, upon its adoption, to
11 the Mayor, the Chancellor of the District of Columbia Public Schools, and the
12 Administrator of the Office of Documents and Administrative Issuances.

13 Sec. 5. This resolution shall take effect immediately.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

NOTICE OF PROPOSED RULEMAKING

The Chancellor of the District of Columbia Public Schools (DCPS), pursuant to section 103 of the District of Columbia Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-172(c) (2012 Repl.)), and Mayor's Order 2007-186, dated August 10, 2007, hereby gives notice of the intent to repeal Section 1023 (COMMUNICABLE DISEASES CONTRACTED BY EMPLOYEES) of Chapter 10 (GENERAL PERSONNEL POLICIES) of Subtitle E (ORIGINAL TITLE 5) of Title 5 (EDUCATION) of the District of Columbia Municipal Regulations (DCMR) and replace it with a new Section 1023 (COMMUNICABLE DISEASES CONTRACTED BY EMPLOYEES) of Chapter 10 (GENERAL PERSONNEL POLICIES) of Subtitle E (ORIGINAL TITLE 5) of Title 5 (EDUCATION) of the DCMR.

The purpose of the proposed rulemaking is to update existing Communicable Diseases Contracted by Employees regulations to align with Department of Health regulations - Communicable Diseases Contracted by Students, Final Rulemaking published at 61 DCR 12274 (November 28, 2014). The proposed rulemaking revises the requirements for maintaining employees at schools and other duty locations and returning them to work after having been diagnosed with a communicable disease.

The proposed rulemaking will be submitted to the Council for a forty-five (45) day period of review. The Chancellor of the District of Columbia Public Schools also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register* and after approval by the Council of the District of Columbia, as specified in section 103(c)(2) of the Act (D.C. Official Code § 38-172(c)(2)).

Section 1023 of Chapter 10, GENERAL PERSONNEL POLICIES, of Title 5, EDUCATION, Subtitle E, ORIGINAL TITLE 5, of the DCMR is deleted and replaced with a new Section 1023 to read as follows:

1023 COMMUNICABLE DISEASES CONTRACTED BY EMPLOYEES

1023.1 An employee with one of the following communicable diseases shall be excluded from their duty location and permitted to return to work under the following conditions:

- (a) Varicella ("Chickenpox"): An employee diagnosed with chickenpox, even if previously vaccinated, may return to work after lesions have crusted and upon submission of a licensed practitioner's note giving medical clearance to return to work;
- (b) Conjunctivitis ("Pink Eye"):

- (1) An employee diagnosed with viral conjunctivitis may return to work after any redness and discharge have disappeared;
 - (2) An employee diagnosed with bacterial conjunctivitis may return to work twenty-four (24) hours after commencing antibiotic treatment if a licensed practitioner provides a note attesting to the diagnosis, the onset of treatment, and that the employee is cleared to return to work; or
 - (3) An employee diagnosed with allergic conjunctivitis may return to work upon submitting a licensed practitioner's note stating the diagnosis;
- (c) Acute Diarrhea:
- (1) An employee with infectious diarrhea (*e.g.*, Salmonella, Shigella, *E. coli*) may return to work when diarrhea ends or upon submitting a health care provider's note providing medical clearance to return to work; or
 - (2) An employee with non-infectious diarrhea (*e.g.*, inflammatory bowel disease, food allergy, reaction to medication) may return to work when diarrhea ends and with instruction to thoroughly wash hands with soap and water after using the toilet and before handling food;
- (d) An employee with a clinical syndrome such as meningitis or pneumonia resulting from Haemophilus influenza type B (Hib) may return to work twenty-four (24) hours after completing [antibiotic] treatment and submitting a licensed practitioner's note attesting to the diagnosis and completion of treatment;
- (e) Hepatitis:
- (1) An employee with Hepatitis A may return to work one (1) week after onset of illness or jaundice and upon submitting a licensed practitioner's note providing medical clearance to return to work;
 - (2) An employee with Hepatitis B or C may return to work upon submitting a licensed practitioner's note providing medical clearance to return to work;
- (f) Impetigo (bacterial infection of the skin): An employee diagnosed with Impetigo may return to work twenty-four (24) hours after beginning antibiotic therapy, provided all lesions are covered, and upon submitting a

licensed practitioner's note stating that the employee is undergoing treatment;

- (g) Measles: An employee diagnosed with Measles may return to work four (4) days after the appearance of rash and upon submitting a licensed practitioner's note providing medical clearance to return to work;
- (h) Meningitis: An employee diagnosed with Meningitis may return to work upon submission of a licensed practitioner's note providing medical clearance to return to work;
- (i) Methicillin-resistant *Staphylococcus aureus* (MRSA): An employee diagnosed with MRSA may return to work provided that all wound drainage ("pus") is covered and contained;
- (j) Mumps: An employee diagnosed with Mumps may return to work five (5) days after the onset of swelling and upon submitting a licensed practitioner's note providing medical clearance to return to work;
- (k) Pediculosis (infestation of live head lice): An employee diagnosed with Pediculosis may remain at work that day; however the employee should commence treatment at the conclusion of the work day. The employee may return to work upon submitting a written statement attesting to the fact that the employee is undergoing treatment. An employee with only Nits (eggs) shall not be excluded from work but shall monitor themselves for re-infestation and seek treatment accordingly;
- (l) Pertussis ("Whooping Cough"): An employee diagnosed with Pertussis may return to work three (3) weeks after the onset of symptoms, if untreated, or five (5) days after starting antibiotic therapy and submitting a licensed practitioner's note attesting to the start of such therapy;
- (m) Pinworms: An employee diagnosed with Pinworms may return to work twenty-four (24) hours after the first treatment and upon submitting a licensed practitioner's note stating that the employee is under treatment;
- (n) Ringworm: An employee diagnosed with Ringworm may return to work upon submitting a licensed practitioner's note stating that the employee is under treatment;
- (o) Rubella (German Measles): An employee diagnosed with Rubella may return to work seven (7) days after the appearance of the rash;
- (p) Scabies ("Itch Mite"): An employee diagnosed with Scabies may return to work upon submission of a licensed practitioner's note indicating that the employee's treatment with a prescription lotion is complete;

- (q) Strep infection (scarlet fever, strep throat): An employee diagnosed with Strep infection may return to work twenty-four (24) hours after beginning antibiotic treatment, provided the employee is without fever for twenty-four (24) hours, and upon submission of a licensed practitioner's note affirming the start of treatment and the employee's fitness for duty; and
- (r) Tuberculosis:
 - (1) An employee diagnosed with active Tuberculosis may return to work upon providing written recommendation to return to work from the Tuberculosis Control Program of the Department of Health; and
 - (2) An employee diagnosed with latent Tuberculosis may return to work after initiating treatment and upon submission of a licensed practitioner's note giving medical clearance to return to work.

1023.2 A determination of whether, and/or under what circumstances, a food service employee, or an employee of a food service contractor, with amebiasis, campylobacteriosis, giardiasis, hepatitis A, salmonellosis, shigellosis, typhoid fever or other food-borne illnesses, shall be able to work shall be made on a case-by-case basis by the Director of the Department of Health.

1023.3 As necessary, the Department of Health shall be consulted regarding whether an employee infected with any other communicable disease shall be permitted to return to work in a capacity that involves contact with students or other employees.

1023.4 Any infected employee determined to be fit to return to work shall be treated in the same manner as any other employee, except that any restrictions or limitations in regard to the employee's performance of his or her duties, recommended by medical personnel, shall be implemented.

1023.5 Personnel policies and procedures regarding fitness-for-duty examinations, the granting of leave, and termination shall apply to any employee with a communicable disease.

1023.6 The Chancellor or an appropriate designee shall ensure that all employees School System personnel are provided with information concerning communicable diseases. This information shall include instruction in measures designed to prevent the spread of communicable diseases.

1023.7 Any information or record regarding an employee with a communicable disease is confidential and access to such information is to be limited to only personnel who are legally required to be informed of the employee's communicable disease. Disclosure of any information to individuals outside of DCPS may not to be made

without the express written consent of the employee; however, suspected or confirmed cases of the following communicable diseases shall be reported within two (2) hours to the Director of the Department of Health: measles, meningococcal meningitis, mumps, pertussis, rubella, tuberculosis, hepatitis A, and other food-borne illnesses (e.g., food poisoning).

1023.8 For purposes of this section, “communicable disease” shall be defined in accordance with 22-B DCMR § 201.

Comments on this rulemaking should be submitted, in writing, to Eboni J. Govan, DCPS, at 1200 First Street, N.E., 12th Floor, Washington, D.C., 20002 or dcregs@dc.gov, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Additional copies of this rule are available from the above address and DCPS’ website at www.dcps.dc.gov.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

ATTORNEY GENERAL
KARL A. RACINE



Legal Counsel Division

MEMORANDUM

TO: Alana Intrieri
Executive Director
Office of Policy and Legislative Support

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: September 29, 2017

SUBJECT: Legal Sufficiency Review of Proposed Resolution, the "Communicable Diseases Contracted by Employees Regulations Approval Resolution of 2017"
(AR-17-558)

This is to Certify that this Office has reviewed the above-referenced proposed resolution and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.



Janet M. Robins