

Personnel

HEALTH EXAMINATIONS

Tuberculosis Tests

No applicant shall be initially employed in a classified or certificated position unless, within the past 60 days, he/she has submitted to a tuberculosis risk assessment and, if tuberculosis risk factors are identified, has submitted to an intradermal or other approved tuberculosis examination to determine that he/she is free of infectious tuberculosis. If the results of the examination are positive, the applicant shall obtain an x-ray of the lungs. At his/her discretion, an applicant may choose to submit to the examination instead of the risk assessment. (Education Code 49406)

(cf. 1240 – Volunteer Assistance)

(cf. 4112 – Appointment and Conditions of Employment)

(cf. 4119.41/4219.41/4319.41 – Employees with Infectious Disease)

(cf. 4212 – Appointment and Conditions of Employment)

The applicant shall submit to the district a certificate signed by an authorized health care provider indicating that he/she is free from active tuberculosis. (Education Code 49406)

The cost of the pre-employment tuberculosis examination shall be paid by the applicant.

An applicant who was previously employed in another California school district or private or parochial school may fulfill the tuberculosis examination if he/she produces a certificate showing that he/she was found to be free of infectious tuberculosis within 60 days of initial hire or by having his/her the previous school district employer verify that it has on file a certificate which contains that evidence. (Education Code 49406)

Thereafter, each district employee who was found free of infectious tuberculosis shall undergo a tuberculosis risk assessment, and an examination whenever risk factors are identified, at least once every four years, or more often if so directed by the Governing Board upon recommendation of the county health officer, for as long as the employee's test remains negative. An employee with a documented positive test for tuberculosis infection followed by an x-ray, shall no longer be required to submit to the examination but shall be referred to the county health officer within 30 days of the examination to determine the need for follow-up care. (Education Code 49406)

The cost of the pre-employment tuberculosis risk assessment and/or examination shall be paid by the applicant, unless the Board has determined that the district will reimburse an applicant who is subsequently hired by the district. The district shall reimburse the employee for the cost, if any,

HEALTH EXAMINATIONS (continued)

of subsequent tuberculosis risk assessments and examinations. The district may provide for the risk assessment and examination or may establish a reasonable fee for the examination that is reimbursable to the employee. (Education Code 49406)

Whenever the district contracts for the transportation of students, the contract shall require that all drivers who will be transporting students complete the tuberculosis risk assessment and, if indicated, the examination for infectious tuberculosis within 60 days of initial hire. (Education Code 49406)

(cf. 3312 – Contracts)
(cf. 3540 – Transportation)
(cf. 3541 – School Bus Drivers)

The following applicants or employees shall be exempted from the requirement to submit to a tuberculosis risk assessment and/or examination: (Education Code 49406)

1. An applicant/employee who files an affidavit stating that he/she adheres to the faith or teachings of a well-recognized religious sect, denomination, or organization and, in accordance with its creed, tenets, or principles, depends for healing upon prayer in the practice of religion and that, to the best of his/her knowledge and belief, he/she is free from infectious tuberculosis

Such an exemption shall be allowed only if the Board determines by resolution, after a hearing, that the health of students would not be jeopardized. If at any time there is probable cause to believe that the applicant/employee is afflicted with infectious tuberculosis, he/she may be excluded from service until the Board is satisfied that he/she is not afflicted.

(cf. 4030 – Nondiscrimination in Employment)

2. A classified employee who is employed for less than a school year and whose functions do not require frequent or prolonged contact with students
3. A pregnant employee who has positive results on a tuberculosis skin test, in which case she shall be exempted from the requirement to follow up with an x-ray of the lungs for a period not to exceed 60 days after the end of the pregnancy
4. A private contracted driver who transports students infrequently without prolonged contact with students

HEALTH EXAMINATIONS (continued)

Examination of Certificated Employees for Disabling Diseases

The Board shall not fill a position requiring certification with an applicant who has not previously been employed in a certificated position in California or a retirant who has not previously been employed as a retirant, unless the district has on file a medical certification completed and submitted directly to the district by an authorized health care provider. (Education Code 44839, 44839.5)

(cf. 4117.14/4317.14 – Postretirement Employment)

The medical certification shall certify that the applicant or retirant is free from any disabling disease which would render him/her unfit to instruct or associate with children. The medical examination referred to in the certificate must have been conducted within six months of the date that the certificate is filed. (Education Code 44839, 44839.5; 5 CCR 5503)

Applicants and retirants shall pay for the cost of obtaining the medical certification. (Education Code 44839, 44839.5)

The Board shall require certificated employees and/or retirants to undergo, at district's expense, a periodic medical examination, pursuant to Education Code 44839 or 44839.5 to determine that they are free from any communicable disease making them unfit to instruct or associate with children. (Education Code 44839, 44839.5)

Mental Examination for Certificated Employees

Whenever the Board is considering the suspension or transfer of a certificated employee based on its reasonable belief that the employee is suffering from mental illness of such a degree as to render him/her incompetent to perform his/her duties, the employee shall be offered the opportunity of being examined by a three-member panel of psychiatrists and psychologists in accordance with Education Code 44942. The employee shall select the members of the panel from a list of psychiatrists and psychologists provided by the district. The examination shall be conducted, at district expense, within 15 days of the ordered suspension or transfer. The employee shall submit to the examination, but shall also be entitled to present a report of any psychiatrist, psychologist, or physician of his/her own choice. (Education Code 44942)

(cf. 4032 – Reasonable Accommodation)

(cf. 4114 – Transfers)

(cf. 4118 – Dismissal /Suspension/Disciplinary)

HEALTH EXAMINATIONS (continued)

Legal

Reference:

EDUCATION CODE

44839 Medical certificate; periodic medical examination

44839.5 Requirements for employment of retirant

44932 Grounds for dismissal of permanent employee

44942 Suspension or transfer of certificated employee on ground of mental illness

45122 Physical examinations

49406 Examination for tuberculosis

BUSINESS AND PROFESSIONS CODE

2700-2838 Nurses

3500-3546 Physician assistants

HEALTH AND SAFETY CODE

121525 Private and parochial school employees, examination for tuberculosis

CODE OF REGULATIONS, TITLE 5

5502 Filing of notice of physical examination for employment of retired persons

5503 Physical examination for employment of retired persons

5504 Medical certification procedures

COURT DECISIONS

Doe v. Lincoln Unified School District, (2010) 188 Cal.App.4th 758

Leonel v. American Airlines, Inc., (2005) 400 F.3d. 702

Raven v. Oakland Unified School District, (1989) 213 Cal.App.3d 1347

Management Resources:

WEB SITES

California Department of Public Health: <http://www.cdph.ca.gov>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

Public Health Institute: <http://www.phi.org>

U.S. Food and Drug Administration: <http://www.fda.gov>

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