

CVUSD

Administrative Regulation

AR 4112.4, 4212.4, 4312.4

Personnel

Health Examinations

Tuberculosis Tests

No applicant shall be initially employed by the District, or employed under contract in a classified or certificated position unless he/she has submitted to a tuberculosis risk assessment within the past 60 days and, if the tuberculosis risk factors are identified, has submitted to an intradermal or other approved tuberculosis examination to determine that he/she is free of tuberculosis infection. 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)

Prior to employment by the district, an applicant shall submit a certificate from an authorized health provider stating that the applicant was assessed and/or examined and found to be free of infectious tuberculosis. (Education Code 49406)

An applicant who was previously employed in another school district or private or parochial school shall be deemed to have fulfilled the tuberculosis testing requirement if he/she produces a certificate showing that he/she was found to be free of infectious ~~active~~ tuberculosis within 60 days of initial hire or if his/her previous employer verifies that it has on file a certificate showing that the applicant is free from infectious tuberculosis. (Education Code 49406)

Thereafter, each district employee who was found free of infectious tuberculosis shall undergo a tuberculosis risk assessment, and an examination whenever the risk factors are identified, at least once every four years or more often when required by the Governing Board upon recommendation of the county health officer. However, once an employee has a documented positive test for tuberculosis infection followed by an x-ray, he/she shall no longer be required to submit to the tuberculosis risk assessment 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)

***Note: The following paragraph should be modified to reflect district practice. For pre-employment tuberculosis risk assessments and examinations, Education Code 49406 specifies that the cost will be borne by the applicant unless otherwise provided by the Governing Board. Education Code 49406 allows the district to reimburse those applicants who are subsequently

hired by the district.***

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, 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. 3542 – 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)

Note: Optional items #2-4 below reflect exemptions authorized, but not required, by Education Code 49406 and should be revised to reflect district practice.

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.

Medical Certification for Communicable Diseases for Certificated Employees

To fill a certificated position with an applicant who has not previously been employed in a certificated position in California, or with a retirant who has not been employed as a retirant, the district shall have a medical certification on file indicating that the applicant or retirant is free from any disabling disease which would render him/her unfit to instruct or associate with children. The certificate shall be completed and submitted directly to the district by an authorized health care provider. The medical examination referred to in the certificate must have been conducted within six months of the time when 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)

Certificated employees and/or retirants shall be required to periodically undergo, at district expense, a 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

A certificated employee may be suspended or transferred to other duties if the Board has reasonable cause to believe that the employee is suffering from mental illness of such a degree as to render him/her incompetent to perform his/her duties. In such a case, the district shall follow the process specified in Education Code 44942 and the district's collective bargaining agreement, including the opportunity for the employee to be examined by a three-member panel 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. 4118 – Dismissal/Suspension/Disciplinary Action)

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>

CSBA: (9/91 7/05) 11/07 (11/09 11/10) 12/14

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