

Administrative Regulation

Health Examinations

AR 4112.4 4212.4,4312.4

Personnel

Tuberculosis Tests

***Note: Pursuant to Education Code 49406, the examination described below may be either an approved intradermal tuberculin test or any other test for tuberculosis infection that is recommended by the Centers for Disease Control and Prevention and licensed by the federal Food and Drug Administration, which, if positive, shall be followed by an X-ray of the lungs. ***

No applicant shall be initially employed in a classified or certificated position unless, within the past 60 days, he/she has submitted to an intradermal or other tuberculin test licensed by the Food and Drug Administration and, if that test was positive, has subsequently obtained an X-ray of the lungs. The applicant shall submit to the district a certificate signed by the examining licensed physician indicating that he/she is free of active tuberculosis. (Education Code 49406; 5 CCR 5503)

***Note: For pre-employment exams, Education Code 49406 and 45122 specify that the cost of the exam will be borne by the applicant unless otherwise provided by Governing Board rules. Education Code 49406 and 45122 allow the district to reimburse those applicants who are subsequently hired by the district. The following optional paragraph should be modified to reflect district practice. ***

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 may fulfill the tuberculosis examination requirement either by producing a certificate showing that he/she was examined within the last four years and found to be free of active tuberculosis or by having his/her previous school district employer verify that it has on file a certificate which contains that evidence. (Education Code 49406)

Every district employee who tests negative shall undergo a tuberculosis examination 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 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)

Tuberculosis tests for employees shall be provided by the district or at district expense. (Education Code 44839, 45122, 49406)

If an employee's religious belief prevents him/her from undergoing a tuberculosis examination, the employee shall file 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 or belief, he/she is free from active tuberculosis. In order to exempt the individual, the Board shall determine by resolution, after a hearing, that the health of students would not be jeopardized. (Education Code 49406)

***Note: The remainder of this section is optional. Education Code 49406 authorizes the following additional exemptions pertaining to the tuberculosis exam requirement. ***

The Superintendent or designee may exempt from the tuberculosis testing requirement classified employees who are employed for less than a school year if their functions do not require frequent or prolonged contact with students. (Education Code 49406)

The Superintendent or designee may exempt a pregnant employee from the requirement that a positive tuberculin test be followed by an X-ray of the lungs, for a period not to exceed 60 days following termination of the pregnancy. (Education Code 49406)

Medical Certification for Communicable Diseases for Certificated Employees

***Note: To fill a position requiring certification with an applicant who has not previously been employed in a certificated position in California, or to employ a retirant who has not previously been employed as a retirant, Education Code 44839 and 44839.5 require the district to obtain a medical certification that the applicant or retirant is free from any disabling disease that renders him/her unfit to instruct children or associate with them. Pursuant to Education Code 44839 and 44839.5, the medical certification must be completed and submitted by a physician or, as amended by SB 171 (Ch. 34, Statutes of 2009), by a physician assistant, registered nurse, or commissioned medical officer. Although 5 CCR 5504 provides a sample medical certificate to meet the requirements of Education Code 44839 and 44839.5, the sample may need to be modified when any of the newly authorized individuals is submitting the medical certification. ***

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 been employed as a retirant, unless the district has on file a medical certification completed and submitted by a physician, physician assistant, registered nurse, or commissioned medical officer. (Education Code 44839 and 44839.5)

(cf. 4117.14/4217.14 - 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)

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

Applicants and retirants shall pay for the cost of obtaining the medical certification. (Education Code 44849, 44839.5)

***Note: The following paragraph is optional. ***

The Board may require certificated employees and/or retirants to undergo, at district 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

***Note: Education Code 44942 specifies a process to be followed to suspend or transfer a certificated employee based on the Board's reasonable belief that the employee is suffering from a mental illness that renders him/her incompetent to perform the duties of the position. As part of this process, Education Code 44942 requires the Board to give the employee a statement of charges, allow the employee to appear before the Board to refute the charges, and offer the employee, at district expense, the opportunity to be examined by a panel of psychiatrists or psychologists. Note that the Americans with Disabilities Act may apply in cases of mental illness. See AR 4032 - Reasonable Accommodation. The district should consult legal counsel as appropriate. ***

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 panel of psychiatrists or psychologists.

(cf. 4032 - Reasonable Accommodation)
(cf. 4118 - 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
 - 3500-3503.5 Physician assistants
- 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

- 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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**Gravenstein Union School District
Sebastopol, California**