

WESTMORLAND UNION ELEMENTARY SCHOOL DISTRICT

I.

Board Policies Covering All Employees

Board Policy No. 4008: HEALTH EXAMINATIONS

A. Medical Examinations In General

It is the policy of the District not to discriminate against applicants or employees based upon physical or mental disability or medical condition. Any refusal to hire an employee or to retain an employee who qualifies as disabled under state and/or federal law will be based upon an individualized medical inquiry which shows that the particular disabled applicant or employee is unable to perform the essential functions of a particular position or is unable to perform them in a manner that does not pose an imminent and substantial danger to the applicant or employee's health or safety or the health and safety of others, and that the individual cannot be reasonably accommodated without undue financial and administrative burdens or without a fundamental alteration of a position or program.

If the disability involves a contagious disease, an individualized medical inquiry will be made to determine how the disease is transmitted; how long the individual may be infectious; the nature and severity of the potential harm to others; and the probability of transmission of the disease to determine if the individual is otherwise qualified for the position. The District, of course, will adhere to all laws requiring reasonable accommodation for disabled individuals.

B. Tuberculosis Testing

1. Applicants For Employment

An individual with the exception of those described in subdivision (e) below will not be initially employed by the District unless within the previous sixty (60) days the individual has undergone a medical examination and thereafter within that sixty (60) day period presents to the Superintendent a certificate showing that the individual was examined to determine whether or not he or she is free from active tuberculosis. Such certificate shall be subject to the following terms and conditions.

- a. The required certificate may be signed by an examining physician and surgeon licensed under Chapter 5 (commencing with section 2000) of Division 2 of the Business and Professions Code, or it may be in the form of a notice from a public health agency or unit of the American Lung Association which indicates whether or not the individual is free of active tuberculosis.

- b. Presentation of the certificate or notice described in 1(a) above is a condition of initial employment, and the cost of the required examination must be borne by the applicant.
- c. The certificate or notice shall be filed with the Superintendent within thirty (30) days of the commencement date of any offer of employment. Such offer will be contingent upon presentation of the certificate or notice previously described.
- d. The examination shall consist of an approved intradermal tuberculin test which, if positive, shall be followed by an X-ray of the lungs. The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a physician and surgeon licensed as described in subdivision 1(a) above.
- e. Subdivisions 1 a-c above do not apply to:
- f. Any applicant who transfers employment from another school district if the applicant produces a certificate which shows that the applicant was examined within the past four (4) years and was found to be free of communicable tuberculosis, or it is verified by the school of previous employment that it has on file a certificate which contains such showing; or Any employment applicant who transfers employment from a private or parochial elementary school, secondary school or nursery school subject to section 49406 of the Education Code if the applicant produces a certificate as provided for in section 3450 of the Health and Safety Code. The certificate must show that the applicant was examined within the past four years and was found to be free of communicable tuberculosis, or it is verified by the school of previous employment that it has on file a certificate which contains such showing.
- g. The Board reserves the right to require either as a condition of employment or otherwise the examination of persons employed if the Superintendent or the Principal believes the presence of these persons in and around school premises would constitute a health hazard to pupils. Such examination is mandatory for drivers who transport students under contract authorized by sections 39800 and/or 39801 of the Education Code. This subdivision does not apply to private contracted drivers who transport pupils on an infrequent basis, not to exceed once a month.

## 2. Employees

Current employees who are skin test negative shall undergo the examination described in paragraph one above under the same terms and conditions as employment applicants at least once every four (4) years, or more often if directed

by the Governing Board upon recommendation by the local health officer for so long as the employee remains skin test negative. Once an employee has a documented positive skin test which has been followed by an X-ray, the examination is no longer required, and a referral shall be made within thirty (30) days of completion of the examination to the local health officer to determine the need for follow-up care.

- a. For all subsequent examinations, the District will reimburse employees for the actual cost of the X-ray or intradermal tuberculin test up to but not to exceed the cost charged for such examinations at the time.
- b. The results of any subsequent required examination shall be filed with the Superintendent within thirty (30) days after the date of expiration of the prior certificate on file.
- c. The Superintendent or designee may exempt a pregnant employee, for a period not to exceed sixty (60) days following termination of pregnancy, from the requirement that a positive intradermal tuberculin test be followed by an X-ray of the lungs.
- d. Nothing in this or any other provision of this Policy shall prevent the Board or the Superintendent from requiring more frequent or extensive physical examination than required by this section.
- e. If the Board determines by resolution after hearing that the health of pupils in the District would not be jeopardized thereby, periodic tuberculosis testing may be suspended for any employee who files an affidavit stating adherence to the faith or teachings of any 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 the employee's knowledge and belief, the employee is free of active tuberculosis. If at any time there is probable cause to believe that the affiant is afflicted with active tuberculosis, the employee may be excluded from active service until the Governing Board is satisfied that the employee presents no imminent and substantial risk to the employee's health and safety or the health and safety of others in the employee's present position and, if so, the employee cannot be reasonably accommodated.

C. Health Examinations

1. Applicants For Position

The District requires that each employee obtain a medical certificate showing whether the applicant is free from any disabling disease unfitting the applicant to

work or associate with children.

- a. The medical certificate shall be presented directly to the Superintendent by a physician and surgeon licensed under the Business and Professions Code, or a commissioned medical officer exempt from licensure by section 2144 of the Business and Professions Code.
- b. The medical examination must have been conducted not more than six (6) months prior to the submission of the certificate and shall be at the expense of the applicant.
- c. Any offer of employment shall be subject to the submission of the required medical certificate.
- d. Notwithstanding section 44031 of the Education Code, the medical certificate shall become part of the personnel record of the employee and shall be open to the employee or his or her designee for inspection.
- e. The District will provide to first time applicants for employment in positions requiring certification a form entitled "Certificate of Medical Examination of Applicants for First Employment in a California School District or County Superintendent of Schools Office." (A description of the functions to be performed by the applicant in terms of activities will be attached to the form.)
- f. Where the results of such medical examination would result in disqualification, an applicant may submit an independent medical opinion for consideration before a final determination of disqualification is made.

## 2. Employees

- a. The Superintendent may require employees to undergo periodic medical examinations under the same conditions and for the same purpose as that provided to applicants in section 1 above, "Health Examinations," except that such examinations shall be at District expense.
- b. The Superintendent may require an employee who shows evidence of any physiological disorder which may be interfering with job performance to undergo examination by a licensed physician and surgeon selected by the District at the District's expense. The employee has the right to have a similar examination by the employee's own physician at the employee's own expense and to have such personal physician present at the examination by the physician selected by the District. Both the District and the employee shall be entitled to all reports of such examinations. Any such reports shall be treated as confidential medical records. The

Superintendent may require additional examinations if in this administrator's opinion, such additional examinations are necessary to provide or corroborate medical information. The cost of such additional examinations shall be borne by the District.

- c. Employees with health problems or medical conditions which render them unfit to work or associate with children and which cannot reasonably be accommodated may be subject to dismissal or termination from employment upon expiration of any leaves to which entitled and to any rights to reemployment under state or federal law.

### 3. Retirants

- a. Any retirant not previously employed as a retirant shall, as a condition of employment, submit a medical certificate at the retirant's own expense under the same conditions and for the same purposes as are specified subdivisions 1 above entitled "Tuberculosis" and "Health Examinations." Periodic medical examinations may be required of a retirant under the same terms as those required of initially employed retirants of the District except that such examinations shall be at District expense. A "retirant" is an individual who has retired under applicable law. The District may employ such an individual as a consultant, substitute, etc. pursuant to applicable law.
- b. The medical certificate described above for certificated employee shall be filed directly with the County Superintendent of Schools and a duplicate or photographic copy shall be filed directly with the District. The examination shall have been made within six (6) months of filing the certificate with both the County and District Superintendents.
- c. A notice from a public health agency or unit of the Tuberculosis Association that indicates whether or not the retirant is free from active tuberculosis may be substituted for that part of the physician's certificate relating to tuberculosis.
- d. Where the results of such examination may result in disqualification, the retirant applicant may submit an independent medical opinion for consideration before a final determination of disqualification is made.

Legal Reference:

Education Code sections 49406, 44839, 44839.5, 45122, 49406

Americans With Disabilities Act (ADA), 42 U.S.C. section 12101 *et seq.*

Vocational Rehabilitation Act of 1973, 29 U.S.C. section 791 *et seq.* sections 503 and 504

Fair Employment and Housing Act, Government Code sections 12900-12996

Government Code section 11135

Date Policy Adopted By The Board: August 22, 1989

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