

**Regulation 4312.4: Health Examinations**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2009 | **Last Revised Date:**  
12/01/2014 | **Last Reviewed Date:** 12/01/2014

### **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 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)

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 tuberculosis within 60 days of initial hire or if his/her previous employer verifies that it has a certificate on file 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 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)

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)

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

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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.

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
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### **Examination of Certificated Employees for Disabling Diseases**

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 on file a medical certification indicating that the applicant or retirant is free from any disabling disease which would render him/her unfit to instruct or associate with children. (Education Code 44839, 44839.5)

The certificate shall be completed and submitted directly to the district by an authorized health care provider. The medical examination referenced 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 44849, 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

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)

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<b>State</b>	<b>Description</b>
5 CCR 5502	Filing of notice of physical examination for employment of retired person
5 CCR 5503	Physical examination for employment of retired persons
5 CCR 5504	Medical certification procedures
Bus. Code 2700-2837	<u>Nursing</u>
Bus. Code 3500-3546	<u>Physician assistants</u>
Ed. Code 44839	<u>Medical certificate; periodic medical examination</u>
Ed. Code 44839.5	<u>Requirements for employment of retirant</u>
Ed. Code 44932	<u>Grounds for dismissal of permanent employees</u>
Ed. Code 44942	<u>Suspension or transfer of certificated employee on ground of mental illness</u>
Ed. Code 45122	<u>Physical examinations</u>
Ed. Code 49406	<u>TB risk assessment</u>
H&S Code 121525	<u>Private and parochial school employees; examination for tuberculosis</u>
<b>Management Resources</b>	<b>Description</b>
Court Decision	Doe v. Lincoln Unified School District (2010) 188 Cal.App.4th 758
Court Decision	Leonel v. American Airlines, Inc. (2005) 400 F.3d. 702
Court Decision	Raven v. Oakland Unified School District (1989) 213 Cal.App.3d 1347
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>U.S. Food and Drug Administration</u>
Website	<u>California Department of Public Health</u>
Website	<u>Centers for Disease Control and Prevention</u>
<b>Code</b>	<b>Description</b>
1240	<u>Volunteer Assistance</u>
1240	<u>Volunteer Assistance</u>
3312	<u>Contracts</u>
3515.3	<u>District Police/Security Department</u>
3515.3	<u>District Police/Security Department</u>
3540	<u>Transportation</u>
3542	<u>School Bus Drivers</u>
3551	<u>Food Service Operations/Cafeteria Fund</u>
3551	<u>Food Service Operations/Cafeteria Fund</u>
4030	<u>Nondiscrimination In Employment</u>
4030	<u>Nondiscrimination In Employment</u>
4032	<u>Reasonable Accommodation</u>

4112	<u>Appointment And Conditions Of Employment</u>
4112.41	<u>Employee Drug Testing</u>
4112.41	<u>Employee Drug Testing</u>
4114	<u>Transfers</u>
4117.14	<u>Postretirement Employment</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4119.41	<u>Employees With Infectious Disease</u>
4121	<u>Temporary/Substitute Personnel</u>
4121	<u>Temporary/Substitute Personnel</u>
4127	<u>Temporary Athletic Team Coaches</u>
4127	<u>Temporary Athletic Team Coaches</u>
4161.8	<u>Family Care And Medical Leave</u>
4200	<u>Classified Personnel</u>
4200	<u>Classified Personnel</u>
4212	<u>Appointment And Conditions Of Employment</u>
4212.41	<u>Employee Drug Testing</u>
4212.41	<u>Employee Drug Testing</u>
4219.41	<u>Employees With Infectious Disease</u>
4227	<u>Temporary Athletic Team Coaches</u>
4227	<u>Temporary Athletic Team Coaches</u>
4261.8	<u>Family Care And Medical Leave</u>
4312.41	<u>Employee Drug Testing</u>
4312.41	<u>Employee Drug Testing</u>
4317.14	<u>Postretirement Employment</u>
4319.41	<u>Employees With Infectious Disease</u>
4327	<u>Temporary Athletic Team Coaches</u>
4327	<u>Temporary Athletic Team Coaches</u>
4361.8	<u>Family Care And Medical Leave</u>
5148	<u>Child Care And Development</u>
5148	<u>Child Care And Development</u>
5148.2	<u>Before/After School Programs</u>
5148.2	<u>Before/After School Programs</u>
5148.3	<u>Preschool/Early Childhood Education</u>
5148.3	<u>Preschool/Early Childhood Education</u>