

Education Code - EDC

44336.

When required by the commission, the application for a certification document or the renewal thereof shall be accompanied by a certificate in such form as shall be prescribed by the commission, from a physician and surgeon licensed under the provisions of the Business and Professions Code or a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, showing that the applicant is free from any contagious and communicable disease or other disabling disease or defect unfitting the applicant to instruct or associate with children.

49406.

(a) (1) (A) Except as provided in subdivision (j), a person shall not be initially employed by a school district, or employed under contract, in a certificated or classified position unless the person has submitted to a tuberculosis risk assessment within the past 60 days, and, if tuberculosis risk factors are identified, has been examined to determine that he or she is free of infectious tuberculosis by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, or a nurse practitioner practicing in compliance with Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code. If no risk factors are identified, an examination is not required. A person who is subject to the requirements of this subdivision may submit to an examination that complies with subparagraph (B) instead of submitting to a tuberculosis risk assessment.

(B) The examination required by this subdivision shall consist of either an approved intradermal tuberculin test or any other test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA). If the test is positive, the test shall be followed by an X-ray of the lungs in accordance with subdivision (f) of Section 120115 of the Health and Safety Code.

(2) The X-ray may be taken by a competent and qualified X-ray technician if the X-ray is subsequently interpreted by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(3) The district superintendent of schools or his or her designee may exempt, for a period not to exceed 60 days following termination of the pregnancy, a pregnant employee from the requirement that a positive test for tuberculosis infection be followed by an X-ray of the lungs.

(b) Thereafter, an employee who has no identified risk factors or who tests negative for the tuberculosis infection shall be required to undergo the tuberculosis risk assessment and, if risk factors are identified, the examination, at least once each four years or more often if directed by the governing board of the school district upon recommendation of the local health officer. Once an employee has a documented positive test for tuberculosis infection conducted pursuant to this subdivision that has been followed by an X-ray, the tuberculosis risk assessment is no longer required. A referral shall be made within 30 days of completion of the examination to the local health officer to determine the need for followup care.

(c) After the tuberculosis risk assessment and, if indicated, the examination, the employee shall file with the district superintendent of schools a certificate from the examining physician and surgeon, physician assistant, or nurse practitioner showing the employee was examined and found free from infectious tuberculosis. The county board of education may require, by rule, that the certificates be filed in the office of the county superintendent of schools or maintained in the office of the county superintendent of schools if a majority of the governing boards of the school districts within the county petition the county board of education. A school district, or school districts with a common governing board, having an average daily attendance of 60,000 or more may elect to maintain the files for its employees in that school district.

(d) As used in this section, "certificate" means a certificate signed by the examining physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business

and Professions Code, or a nurse practitioner practicing in compliance with Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, or a notice from a public health agency that indicates freedom from infectious tuberculosis. The latter, regardless of form, shall constitute evidence of compliance with this section.

(e) Nothing in this section shall prevent the governing board of a school district, upon recommendation of the local health officer, from establishing a rule requiring a more extensive or more frequent physical examination than required by this section. The rule shall provide for reimbursement on the same basis as required in this section.

(f) The tuberculosis risk assessment and, if indicated, the examination is a condition of initial employment and the expense shall be borne by the applicant unless otherwise provided by rules of the governing board of the school district. However, the governing board of a school district may, if an applicant is accepted for employment, reimburse that person in a like manner prescribed in this section for employees.

(g) The governing board of a school district shall reimburse the employee for the cost, if any, of the tuberculosis risk assessment and the examination. The governing board of a school district may provide for the tuberculosis risk assessment and examination required by this section or may establish a reasonable fee for the examination that is reimbursable to employees of the school district complying with this section.

(h) At the discretion of the governing board of a school district, this section shall not apply to those employees not requiring certification qualifications who are employed for any period of time less than a school year whose functions do not require frequent or prolonged contact with pupils.

(i) If the governing board of a school district determines by resolution, after hearing, that the health of pupils in the school district would not be jeopardized, this section shall not apply to an employee of the school district who files an affidavit stating that he or 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 or her knowledge and belief, he or she is free from infectious tuberculosis. If at any time there is probable cause to believe that the affiant is afflicted with infectious tuberculosis, he or she may be excluded from service until the governing board of the school district is satisfied that he or she is not afflicted.

(j) A person who transfers employment from one school or school district to another school or school district shall be deemed to meet the requirements of subdivision (a) if that person can produce a certificate that shows he or she was found to be free of infectious tuberculosis within 60 days of initial hire, or the school previously employing the person verifies that the person has a certificate on file showing that the person is free from infectious tuberculosis.

(k) A person who transfers his or her employment from a private or parochial elementary school, secondary school, or nursery school to a school or school district subject to this section shall be deemed to meet the requirements of subdivision (a) if that person can produce a certificate as provided for in Section 121525 of the Health and Safety Code that shows that he or she was found to be free of infectious tuberculosis within 60 days of initial hire, or if the school previously employing the person verifies that the person has a certificate on file showing that the person is free from infectious tuberculosis.

(l) A governing board or county superintendent of schools providing for the transportation of pupils under contract authorized by Section 39800, 39801, or any other provision of law shall require as a condition of the contract the tuberculosis risk assessment and, if indicated, the examination for infectious tuberculosis within 60 days of initial hire, as provided by subdivision (a), of all drivers transporting pupils. At the discretion of the governing board or county superintendent of schools, this subdivision shall not apply to a private contracted driver who transports pupils infrequently without prolonged contact with the pupils.

(m) A volunteer in a school shall also be required to have on file with the school a certificate showing that, upon initial volunteer assignment, the person submitted to a tuberculosis risk assessment and, if tuberculosis risk factors were identified, was examined and found to be free of infectious tuberculosis. If no risk factors are identified, an examination is not required. At the discretion of the governing board of a school district, this section shall not apply to a volunteer whose functions do not require frequent or prolonged contact with pupils.

(n) The State Department of Public Health, in consultation with the California Tuberculosis Controllers Association, shall develop a risk assessment questionnaire, to be used to conduct tuberculosis risk assessments pursuant to this section. The risk assessment questionnaire shall be administered by a health care provider, which shall be specified on the questionnaire. This risk assessment questionnaire shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

49423.

(a) Notwithstanding Section 49422, any pupil who is required to take, during the regular schoolday, medication prescribed for him or her by a physician and surgeon or ordered for him or her by a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, may be assisted by the school nurse or other designated school personnel or may carry and self-administer prescription auto-injectable epinephrine if the school district receives the appropriate written statements identified in subdivision (b).

(b) (1) In order for a pupil to be assisted by a school nurse or other designated school personnel pursuant to subdivision (a), the school district shall obtain both a written statement from the physician and surgeon or physician assistant detailing the name of the medication, method, amount, and time schedules by which the medication is to be taken and a written statement from the parent, foster parent, or guardian of the pupil indicating the desire that the school district assist the pupil in the matters set forth in the statement of the physician and surgeon or physician assistant.

(2) In order for a pupil to carry and self-administer prescription auto-injectable epinephrine pursuant to subdivision (a), the school district shall obtain both a written statement from the physician and surgeon or physician assistant detailing the name of the medication, method, amount, and time schedules by which the medication is to be taken, and confirming that the pupil is able to self-administer auto-injectable epinephrine, and a written statement from the parent, foster parent, or guardian of the pupil consenting to the self-administration, providing a release for the school nurse or other designated school personnel to consult with the health care provider of the pupil regarding any questions that may arise with regard to the medication, and releasing the school district and school personnel from civil liability if the self-administering pupil suffers an adverse reaction as a result of self-administering medication pursuant to this paragraph.

(3) The written statements specified in this subdivision shall be provided at least annually and more frequently if the medication, dosage, frequency of administration, or reason for administration changes.

(c) A pupil may be subject to disciplinary action pursuant to Section 48900 if that pupil uses auto-injectable epinephrine in a manner other than as prescribed.

49455.

(a) (1) During the kindergarten year or upon first enrollment or entry in a California school district of a pupil at an elementary school, and in grades 2, 5, and 8, the pupil's vision shall be appraised by the school nurse or other authorized person under Section 49452.

(2) A pupil whose first enrollment or entry occurs in grade 4 or 7 shall not be required to be appraised in the year immediately following the pupil's first enrollment or entry.

(b) The appraisal shall include tests for visual acuity, including near vision, and color vision; however, color vision shall be appraised once and only on male pupils, and the results of the appraisal shall be entered in the health record of the pupil. Color vision appraisal need not begin until the male pupil has reached the first grade.

(c) The appraisal may be waived, if the pupil's parents so desire, by their presenting of a certificate from a physician and surgeon, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, or an optometrist setting out the results of a determination of the pupil's vision, including visual acuity and color vision.

(d) A pupil's vision may be appraised by using an eye chart or any other scientifically validated photoscreening test. Photoscreening tests shall be performed, under an agreement with, or the supervision of, an optometrist or ophthalmologist, by the school nurse or a trained individual who meets requirements established by the department.

(e) Continual and regular observation of the pupil's eyes, appearance, behavior, visual performance, and perception that may indicate vision difficulties shall be done by the school nurse and the classroom teacher.

(f) This section shall not apply to a pupil whose parents or guardian file with the principal of the school in which the pupil is enrolling, a statement in writing that they adhere to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depend for healing upon prayer in the practice of their religion.

(g) The department shall adopt guidelines to implement this section, including training requirements and a method of testing for near vision.

49458.

When a school district or a county superintendent of schools requires a physical examination as a condition of participation in an interscholastic athletic program, the physical examination may be performed by a physician and surgeon or physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code.

87408.

(a) When a community college district wishes to employ a person in an academic position and that person has not previously been employed in an academic position in this state, the district shall require a medical certificate showing that the applicant is free from any communicable disease, including, but not limited to, active tuberculosis, unfitting the applicant to instruct or associate with students. The medical certificate shall be submitted directly to the governing board by a physician and surgeon licensed under the Business and Professions Code, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, or a commissioned medical officer exempted from licensure. The medical examination shall have been conducted not more than six months before the submission of the certificate and shall be at the expense of the applicant. A governing board may offer a contract of employment to an applicant subject to the submission of the required medical certificate. Notwithstanding Section 87031, the medical certificate shall become a part of the personnel record of the employee and shall be open to the employee or his or her designee.

(b) The governing board of a community college district may require academic employees to undergo a periodic medical examination by a physician and surgeon licensed under the Business and Professions Code, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, or a commissioned medical officer exempted from licensure, to determine that the employee is free from any communicable disease, including, but not limited to, active tuberculosis, unfitting the applicant to instruct or associate with students. The periodic medical examination shall be at the expense of the district. The medical certificate shall become a part of the personnel record of the employee and shall be open to the employee or his or her designee.

87408.5.

(a) When a community college district wishes to employ a retirant who is retired for service, and such person has not been previously employed as a retirant, such district shall require, as a condition of initial employment as a retirant, a medical certificate showing that the retirant is free from any disabling disease unfitting him or her to instruct or associate with students. The medical certificate shall be completed and submitted directly to the

community college district by a physician and surgeon licensed under the Business and Professions Code, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, or a commissioned medical officer exempted from licensure. A medical examination shall be required for the completion of the medical certificate. The examination shall be conducted not more than six months before the completion and submission of the certificate and shall be at the expense of the retirant. The medical certificate shall become a part of the personnel record of the employee and shall be open to the employee or his or her designee.

(b) The community college district that initially employed the retirant, or any district that subsequently employs the retirant, may require a periodic medical examination by a physician and surgeon licensed under the Business and Professions Code, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, or a commissioned medical officer exempted from licensure, to determine that the retirant is free from any communicable disease unfitting him or her to instruct or associate with students. The periodic medical examination shall be at the expense of the community college district. The medical certificate shall become a part of the personnel record of the retirant and shall be open to the retirant or his or her designee.

87408.6.

(a) Except as provided in subdivision (h), no person shall be initially employed by a community college district in an academic or classified position unless the person has submitted to an examination within the past 60 days to determine that he or she is free of active tuberculosis, by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code. This examination shall consist of an approved intradermal tuberculin test or any other test for tuberculosis infection recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA), that, 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 under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

The district superintendent, or his or her designee, may exempt, for a period not to exceed 60 days following termination of the pregnancy, a pregnant employee from the requirement that a positive intradermal tuberculin test be followed by an X-ray of the lungs.

(b) Thereafter, employees who are skin test negative, or negative by any other test recommended by the CDC and licensed by the FDA, shall be required to undergo the foregoing examination at least once each four years or more often if directed by the governing board upon recommendation of the local health officer for so long as the employee remains test negative by either the tuberculin skin test or any other test recommended by the CDC and licensed by the FDA. Once an employee has a documented positive skin test or any other test that has been recommended by the CDC and licensed by the FDA that has been followed by an X-ray, the foregoing examinations shall no longer be required, and referral shall be made within 30 days of completion of the examination to the local health officer to determine the need for followup care.

(c) After the examination, each employee shall cause to be on file with the district superintendent a certificate from the examining physician and surgeon or physician assistant showing the employee was examined and found free from active tuberculosis. "Certificate," as used in this subdivision, means a certificate signed by the examining physician and surgeon or physician assistant, or a notice from a public health agency or unit of the American Lung Association that indicates freedom from active tuberculosis. The latter, regardless of form, shall constitute evidence of compliance with this section.

(d) This examination is a condition of initial employment and the expense incident thereto shall be borne by the applicant unless otherwise provided by rules of the governing board. However, the board may, if an applicant is accepted for employment, reimburse the person in a like manner prescribed for employees in subdivision (e).

(e) The governing board of each district shall reimburse the employee for the cost, if any, of this examination. The board may provide for the examination required by this section or may establish a reasonable fee for the examination that is reimbursable to employees of the district complying with this section.

(f) At the discretion of the governing board, this section shall not apply to those employees not requiring certification qualifications who are employed for any period of time less than a college year whose functions do not require frequent or prolonged contact with students.

The governing board may, however, require the examination and may, as a contract condition, require the examination of persons employed under contract, other than those persons specified in subdivision (a), if the board believes the presence of these persons in and around college premises would constitute a health hazard to students.

(g) If the governing board of a community college district determines by resolution, after hearing, that the health of students in the district would not be jeopardized thereby, this section shall not apply to any employee of the district who files an affidavit stating that he or she adheres 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 his or her knowledge and belief he or she is free from active tuberculosis. If at any time there should be probable cause to believe that the affiant is afflicted with active tuberculosis, he or she may be excluded from service until the governing board of the employing district is satisfied that he or she is not so afflicted.

(h) A person who transfers his or her employment from one campus or community college district to another shall be deemed to meet the requirements of subdivision (a) if the person can produce a certificate that shows that he or she was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the college previously employing him or her that it has a certificate on file that contains that showing.

A person who transfers his or her employment from a private or parochial elementary school, secondary school, or nursery school to the community college district subject to this section shall be deemed to meet the requirements of subdivision (a) if the person can produce a certificate as provided for in Section 121525 of the Health and Safety Code that shows that he or she was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him or her that it has the certificate on file.

(i) Any governing board of a community college district providing for the transportation of students under contract shall require as a condition of the contract the examination for active tuberculosis, as provided in subdivision (a), of all drivers transporting the students, provided that privately contracted drivers who transport the students on an infrequent basis, not to exceed once a month, shall be excluded from this requirement.

(j) Examinations required pursuant to subdivision (i) shall be made available without charge by the local health officer.