

Human Resources
DRAFT as of 1/28/15

BP 7330 COMMUNICABLE DISEASE

References:

Education Code Sections 87408, 87408.6, and 88021

NOTE: The following language is legally required.

All newly hired academic and classified employees shall have on file with the District a medical certificate indicating freedom from communicable diseases, including tuberculosis. No academic or classified employee shall commence service until such medical certificate has been provided to the District.

All newly hired academic and classified employees must show that they have been examined within the past 60 days to determine that they are free from active tuberculosis.

All employees shall be required to undergo an examination within four years of employment and every four years thereafter to determine if they are free from tuberculosis.

NOTE: The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel. This document was reviewed by Wyman, David, and Kit on August 13, 2013. The language in **green ink** was added by David on January 28, 2015.

Date Adopted:

(This is a new policy recommended by the Policy and Procedure Service)

Legal Citations for BP 7330

Education Code Sections 87408, 87408.6, and 88021

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 commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions **Code**, or a commissioned medical officer in the United States Air Force. 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**, or a commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions **Code**, 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.

87408.6. (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**. This examination shall consist of an X-ray of the lungs, or an approved intradermal tuberculin test, 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 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 skin test negative. Once an employee has a documented positive skin test 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 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 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, will 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 this section, 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.

88021. Whenever a governing board of a community college district requires a physical examination to be taken by a classified employee or employees, either by rule or by its direction or the direction of its authorized district administrator; or when classified employees are required by law to submit to a physical examination for continuance in employment, the board shall either provide the required examination, cause it to be provided, or provide the employee with reasonable reimbursement for the required examination.

If the governing board requires a physical examination or an examination is required by law as a condition of pre-employment, it may cause the required examination to be given. It may, if an applicant is required to take a pre-employment physical examination, provide for reasonable reimbursement if the applicant is subsequently employed by the district.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.