

3161 EXAMINATION FOR CAUSE

[See POLICY ALERT No 227]

The Board of Education may require the physical and/or psychiatric, in accordance with law, require the psychiatric or physical examination of any teaching staff member who shows evidence of deviation from normal physical or mental health in accordance with N.J.A.C. 6A:32-6.3(b).

The Superintendent shall ~~recommend~~ require a physical and/or psychiatric examination on to the Board the examination of any a teaching staff member whenever, in the judgement of the Superintendent, a teaching staff member shows deviation from normal physical or mental health, to determine the teaching staff member's physical and mental fitness to perform with reasonable accommodation the position the teaching staff member currently holds, or to detect any health risks to students and other employees. whose physical or mental condition so departs from normal health as to adversely affect the performance of the member's duties. If the Board determines that deviation from normal health has been demonstrated, it may require that the member submit to a physical or mental examination.

A teaching staff member that is required to undergo a physical and/or psychiatric examination shall be provided a written statement of reasons for the required examination(s) and notice the teaching staff member has the right to request a hearing with the Board. The hearing shall be conducted in accordance with the provisions of N.J.S.A. 18A:25-7 and will offer the teaching staff member the opportunity to appear before the Board to refute the reasons for the required examination(s), provided any such hearing is requested by the teaching staff member in writing within five working days of the teaching staff member's receipt of the written statement of reasons. A teaching staff member shall be ordered to submit to the appropriate examination(s) by the physician or institution designated by the Board if the teaching staff member failed to timely request a hearing before the Board or failed to persuade the Board at the hearing that the teaching staff member should not be required to submit to the appropriate examination(s). The Board's determination at the conclusion of such a hearing is appealable to the Commissioner of Education pursuant to N.J.S.A. 18A:6-9 and N.J.A.C. 6A:4 – Appeals pursuant to N.J.A.C. 6A:32-6.3(b)2.

The Board shall bear the cost of the examination if the examination is performed by a physician or institution designated by the Board. The examination may be performed by a physician or institution of the teaching staff member's own choosing, approved by the Board, and at the teaching staff member's own expense in accordance with N.J.S.A. 18A:16-3 and N.J.A.C. 6A:32-6.3.



~~A requirement for physical or mental examination shall be made known to the employee by written notice setting forth the nature of the examination required, the reasons for the requirement, and a statement offering the member the opportunity to appear before the Board to explain or refute those reasons, provided any such hearing is requested in writing within ten working days of the receipt of the notice.~~

~~A teaching staff member who fails to request an appearance before the Board within the time permitted or, having appeared before the Board, fails to persuade the Board that he/she should not be required to submit to the required examination shall be ordered to submit to an appropriate examination by a physician or institution designated by the Board and at the Board's expense.~~

~~The~~ If teaching staff member may, ~~at his/her option,~~ submit names of physicians or institutions to the Board for consideration to complete the appropriate examination(s). ~~The~~ the Board is not required to designate a physician or institution submitted for consideration by the teaching staff member, but ~~the Board will shall~~ not act unreasonably in withholding its approval of a physician or institution. The Board shall require the teaching staff member to authorize the release of examination results to the Superintendent. submitted by a teaching staff member. The cost of the examination will be borne by the Board if the Board designates a physician or institution from the names submitted from the teaching staff member.

If the results of any such examination indicate mental abnormality or communicable disease, the teaching staff member shall be ineligible for further service until proof of recovery, satisfactory to the Board, is furnished, but if the teaching staff member is under contract or has tenure, they may be granted sick leave with compensation as provided by law and shall, upon satisfactory recovery, be permitted to complete the term of their contract, if they are under contract, or be reemployed with the same tenure as they possessed at the time their services were discontinued, if they have tenure, unless their absence shall exceed a period of two years in accordance with N.J.S.A. 18A:16-4.

In order to return to work, the teaching staff member must submit to an appropriate examination and submit the results of the examination to the Superintendent. The examination must be conducted by a physician or institution upon which the Board and teaching staff member confer and agree. If the physician or institution conducting the examination is conducted by the Board's choice, the cost shall be borne by the Board; if the physician or institution conducting the examination is conducted by the teaching staff member's choice, the cost shall be borne by the teaching staff member.



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~~If the teaching staff member's request is denied, or if the teaching staff member does not request the Board to consider a physician or institution, the staff member may elect to submit to an appropriate examination conducted by a physician or institution of the teaching staff member's own choosing and at his/her expense, provided the physician or institution so chosen is approved by the Board, pursuant to N.J.S.A. 18A:16-3, and is authorized and directed by the member to report the results of the examination to the Board.~~

~~If the results of the examination show mental illness or communicable disease, as defined in Policy 8451, which render the teaching staff member unable to perform the essential functions of his/her position with or without reasonable accommodations, the teaching staff member shall be placed on sick leave and compensated in accordance with his/her sick leave entitlement, if any, until proof of recovery, satisfactory to the Board, is furnished. No leave of absence granted under this policy shall exceed the term of the contract of a nontenured teaching staff member or a period of two years in the case of a tenured teaching staff member. Records of the examination are the property of the Board and shall be filed with its medical inspector as confidential information but shall be open for inspection by officers of the State Department of Health and the local board of health.~~

A teaching staff member who refuses to submit to the examination required by ~~the Board~~ this Policy and has exhausted the hearing procedures established by law and this ~~P~~policy shall be subject to discipline, which may include, but not limited to, termination or the certification of tenure charges to the Commissioner of Education, as applicable.

42 U.S.C.A. 12101

N.J.S.A. 18A:6-10; 18A: 16-2; 18A:16-3; 18A: 16-4; ~~18A:25-7~~;
18A:25-7; 18A:28-5; 18A:30-1 et seq.

N.J.A.C. 6A:32-6.2; 6A:32-6.3

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