

4161 EXAMINATION FOR CAUSE

[See POLICY ALERT No 227]

The Board of Education may, ~~in accordance with law,~~ require the ~~psychiatric or physical and/or psychiatric~~ examination of any support 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 to the Board ~~the examination of any on a~~ support staff member ~~whose whenever, in the judgement of the Superintendent, a support staff member shows evidence of deviation from normal physical or mental condition health, to determine the support staff member's physical and mental fitness to perform with reasonable accommodation the position the support staff members currently holds, or to detect any health risks to students and other employees. so departs from normal health as to adversely affect the performance of the member's duties. Any such recommendation must be accompanied by competent evidence. 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 support 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 support 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 support 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 support staff member in writing within five working days of the support staff member's receipt of the written statement of reasons. A support staff member shall be ordered to submit to the appropriate examination(s) by the physician or institution designated by the Board if the support staff member failed to timely request a hearing before the Board or failed to persuade the Board at the hearing that the support 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.

~~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~~



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~~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.~~

~~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 support staff member's own choosing, approved by the Board, and at the support 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 support 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 the support staff member may, at his/her option, submits 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 support staff member, but shall the Board will not act unreasonably in withholding its approval of a physician or institution, submitted by a support 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 support staff member. The Board shall require the support staff member to authorize the release of the examination results to the Superintendent.~~

~~If the support staff member's request is denied, or if the support 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 support 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 any such the examination indicate show mental illness abnormality or communicable disease, as defined in Policy 8451, the support staff member shall be ineligible for further service placed on sick leave and compensated in accordance with his or her sick leave entitlement, if any, until proof of recovery, satisfactory to the Board, is furnished, but if the support staff member is under contract, or be reemployed with the same tenure as they possessed at the time their services were discontinued, if they tenure, unless their absence shall exceed a period of two years in accordance with N.J.S.A. 18A:16-4. No leave of absence granted under this policy shall exceed the term of the~~



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~~contract of a nontenured support staff member or a period of two years in the case of a tenured support staff member.~~

In order to return to work, the support 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 support 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 support staff member's choice, the cost shall be borne by the support staff member.

A support 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 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:30-1 et seq.~~
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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