

CHAPTER 22

APPEAL OF MEDICAL EXAMINATIONS

22.1 APPEALS OF MEDICAL DISQUALIFICATIONS OF CLASSIFIED EMPLOYEES AND ELIGIBLES

22.1.A MEDICAL DISQUALIFICATION: The Commission's Rules that provide for medical disqualification of eligibles and laid off employees and for disciplinary actions against employees are Chapters 4, 12, and 20. A summary of actions related to medical concerns that may be appealed is as follows:

1. Disqualification of an eligible.
2. Refusal of reemployment, reinstatement, or return from leave of absence based on District health standards.
3. Dismissal for health reasons.
4. Placement of an employee on involuntary illness leave.

22.1.B PROCEDURE TO FOLLOW: The procedure set forth below shall be followed in the actions described in 22.1.A above.

1. The Director of Human Resources shall notify the individual in writing of the reason for the action and of the opportunity for written appeal to the Personnel Commission within fourteen (14) days. The notice shall state that appeal may be made on the grounds listed in Chapter 12 or on the basis that the disqualification was not in accord with the health standards set forth in the Rules of the Board of Trustees. If a current employee is involved, a copy of the notice shall be provided to the appropriate administrator.
2. If appeal is made to the Commission, the appellant shall be notified that the matter will be investigated and that the appellant bears the burden of proof. The appellant shall be invited to submit, in support of the appeal and at appellant's expense, written medical or laboratory reports, x-rays, photographs, other exhibits or written statements as appropriate.
3. The Personnel Commission shall determine whether the appeal will be the subject of a special investigation or a hearing by a medical examiner.

22.1.C MEDICAL EXAMINATION: A medical examiner is the representative of the Commission and is authorized to grant or refuse extensions of time, to

set proceedings for examination of facts to appoint a medical expert or specialist to examine the appellant, and to perform any and all acts in connection with such proceedings that may be authorized by these Rules. A medical examiner's findings and recommendations shall be based on health standards established by the Board of Trustees.

1. Expenses for the services of the medical examiner shall be in the Personnel Commission's budget.
2. A medical examiner may appoint a medical expert or specialist to examine the appellant and report finds to the medical examiner or may require additional information from the appellant or the District.
3. Expense of a special physical examination initiated by the medical examiner shall be paid by the appellant; if the appeal is sustained, the employee shall be reimbursed by the Board of Trustees for the fees of the medical expert or specialist. The medical examiner shall report its findings and recommendations to the Personnel Commission. The Personnel Commission shall provide copies of the findings and recommendations to the appellant.
4. The appellant shall consent to the release of all medical records requested for review.

22.1.D FINDINGS & RECOMMENDATIONS: The medical examiner's or special investigator's written findings, and recommendation shall be considered by the Commission. The decision of the Personnel Commission shall be rendered in writing. Copies of the decision shall be sent to the appellant.

22.1.E DECISION OF THE PERSONNEL COMMISSION: The decision of the Personnel Commission shall include instructions to the administration regarding the action to be taken as a result of the appeals. If an eligible is given health approval for employment, his/her name shall be restored or added to the eligibility list and retained on the eligibility list for certification for the balance of the life of the list. The adding of names to eligibility lists shall not invalidate appointments made from such lists from the time the lists were established until the names were restored or added.

22.1.F FAILURE OF APPELLANT TO APPEAR: Failure of the appellant to appear at times established for examination of persons or facts shall be deemed a withdrawal of the appeal, and the case shall be closed.

REFERENCE: Education Code Sections 88021, 88080 and 88081