

POLICY

UNION COUNTY
EDUCATIONAL
SERVICES COMMISSION
SUPPORT STAFF MEMBERS

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Examination for Cause

THIS POLICY REPLACES EXISTING POLICY 4161 IN ITS ENTIRETY

P 4161 EXAMINATION FOR CAUSE

The Commission may require the 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 require a physical and/or psychiatric examination on a support staff member whenever, in the judgment of the Superintendent, a support staff member shows evidence of deviation from normal physical or mental health, to determine the support staff member's physical and mental fitness to perform with reasonable accommodation the position the support staff member currently holds, or to detect any health risks to students and other employees.

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.

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.

If the support staff member submits names of physicians or institutions to the Board for consideration to complete the appropriate examination(s) the Board is not required to designate the physician or institution submitted for consideration by the support staff member, but shall not act unreasonably in withholding its approval of the physician or institution. The Board shall require the support staff member to authorize the release of the examination results to the Superintendent.

If the results of any such examination indicate mental abnormality or communicable disease, the support staff member shall be ineligible for further service until proof of recovery, satisfactory to

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the Board, is furnished, but if the support 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 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 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 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:28-5; 18A:30-1 et seq.

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

Adopted: September 2, 1998

Revised: