

**SUBJECT: EMPLOYEE MEDICAL EXAMINATIONS**

**Pre-Employment Medical Examinations**

In accordance with the Americans with Disabilities Act, as amended, the BOCES shall not require applicants for positions to undergo a medical examination prior to an offer of employment. Further, the BOCES shall not make inquiries of a job applicant as to whether the applicant is an individual with a disability or as to the nature or severity of a disability.

However, the BOCES may make pre-employment inquiries into the ability of an applicant to perform job-related functions.

**Employment Examinations**

The BOCES reserves the right to require any employee to have a physical examination at its discretion after an offer of employment has been made.

When such examination is made by the BOCES physician the cost of such examination shall be borne by the BOCES. A staff member, however, may elect to have a medical examination at his/her own expense by a physician of his/her own choice.

The Board reserves the right to request a medical examination at any time during employment, at the BOCES expense, in order to determine whether any employee can perform the essential functions of the position with or without reasonable accommodation.

Annual or more frequent examinations of any employee may be required, when, in the judgment of the BOCES physician and the District Superintendent, such procedure is deemed necessary.

**Bus Drivers and Substitute Bus Drivers**

All bus drivers and substitute bus drivers are required to have yearly physical examinations. Each bus driver or substitute bus driver initially employed by the BOCES shall have a physical examination within the four (4) weeks prior to the beginning of service. In no case shall the interval between physical examinations exceed a thirteen-month period. Failure to comply will result in suspension from driving duties by the Transportation Coordinator or designee.

**Occasional Driver Physicals**

Occasional/volunteer drivers who transport students are required to have yearly physical examinations by a BOCES-designated physician. In no case shall the interval between physical examinations exceed a thirteen-month period. Failure to comply will result in suspension of privileges to transport students by the Transportation Coordinator or designee.

The final acceptance or rejection of a medical report with reference to the health of an employee lies within the discretion of the Board. The decision of the physician designated by the Board as the determining physician shall take precedence over all other medical advice.

All medical and health related information will be kept in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

### **Examinations and Inquiries**

#### Acceptable

The BOCES may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. The BOCES may make inquiries into the ability of an employee to perform job-related functions.

#### Prohibited

The BOCES shall not require a medical examination and shall not make inquiries as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless the examination or inquiry is shown to be job related and consistent with business necessity.

Americans with Disabilities Act Amendments Act (ADAAA) of 2008, Public Law 110-325)  
Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191  
45 Code of Federal Regulations (CFR) Parts 160 and 164  
Education Law Sections 913 and 3624  
8 New York Code of Rules and Regulations (NYCRR) Section 156.3(2)  
10 New York Code of Rules and Regulations (NYCRR) Part 14  
15 New York Code of Rules and Regulations (NYCRR) Part 6  
Vehicle and Traffic Law 19-A

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