

Introduced by Senator Allen
(Principal coauthor: Assembly Member Wood)

February 12, 2016

An act to amend Section 87408.6 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

SB 1038, as introduced, Allen. Community colleges: employees.

Existing law prohibits a person from being employed by a community college in an academic or classified position unless the person has submitted to a tuberculosis examination within the past 60 days to determine that he or she is free of active tuberculosis.

This bill would instead prohibit employment unless the person, within 60 days, has submitted to a tuberculosis risk assessment and, if tuberculosis risk factors are identified, has undergone a tuberculosis examination.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 87408.6 of the Education Code is
2 amended to read:
3 87408.6. (a) (1) Except as provided in subdivision (h), ~~no~~ a
4 person shall *not* be initially employed by a community college
5 district in an academic or classified position unless the person has
6 *within the last 60 days* submitted to a *tuberculosis risk assessment*
7 *developed by the State Department of Public Health and the*
8 *California Tuberculosis Controllers Association and, if risk factors*

1 ~~are present~~, an examination ~~within the past 60 days~~ to determine
 2 that he or she is free of active tuberculosis, by a physician and
 3 surgeon licensed under Chapter 5 (commencing with Section 2000)
 4 of Division 2 of the Business and Professions Code or a physician
 5 assistant practicing in compliance with Chapter 7.7 (commencing
 6 with Section 3500) of Division 2 of the Business and Professions
 7 Code. This examination shall consist of an approved intradermal
 8 tuberculin test or any other test for tuberculosis infection
 9 recommended by the federal Centers for Disease Control and
 10 Prevention (CDC) and licensed by the federal Food and Drug
 11 Administration (FDA), that, if positive, shall be followed by an
 12 X-ray of the lungs.

13 ~~The~~
 14 (2) *The* X-ray film may be taken by a competent and qualified
 15 X-ray technician if the X-ray film is subsequently interpreted by
 16 a physician and surgeon licensed under Chapter 5 (commencing
 17 with Section 2000) of Division 2 of the Business and Professions
 18 Code.

19 ~~The~~
 20 (3) *The* district superintendent, or his or her designee, may
 21 exempt, for a period not to exceed 60 days following termination
 22 of the pregnancy, a pregnant employee from the requirement that
 23 a positive intradermal tuberculin test be followed by an X-ray of
 24 the lungs.

25 (b) Thereafter, employees who are skin test negative, or negative
 26 by any other test recommended by the CDC and licensed by the
 27 FDA, *or were not tested because of a lack of risk factors*, shall be
 28 required to undergo the foregoing *tuberculosis risk assessment*
 29 *and, if risk factors exist*, examination at least once each four years
 30 or more often if directed by the governing board upon
 31 recommendation of the local health officer for so long as the
 32 employee remains test negative by either the tuberculin skin test
 33 or any other test recommended by the CDC and licensed by the
 34 FDA. Once an employee has a documented positive skin test or
 35 any other test that has been recommended by the CDC and licensed
 36 by the FDA that has been followed by an X-ray, the foregoing
 37 *tuberculosis risk assessments and examinations* shall no longer be
 38 required, and referral shall be made within 30 days of completion
 39 of the examination to the local health officer to determine the need
 40 for followup care.

1 (c) ~~After~~ *If risk factors were present at the tuberculosis risk*
2 *assessment and an examination occurs, after the examination,*
3 *each examination an* employee shall cause to be on file with the
4 district superintendent a certificate from the examining physician
5 and surgeon or physician assistant showing the employee was
6 examined and found free from active tuberculosis. "Certificate,"
7 as used in this subdivision, means a certificate signed by the
8 examining physician and surgeon or physician assistant, or a notice
9 from a public health agency or unit of the American Lung
10 Association that indicates freedom from active tuberculosis. The
11 latter, regardless of form, shall constitute evidence of compliance
12 with this section.

13 (d) This *tuberculosis risk assessment and, if risk factors are*
14 *present*, examination is a condition of initial employment and the
15 expense incident thereto shall be borne by the applicant unless
16 otherwise provided by rules of the governing board. However, the
17 board may, if an applicant is accepted for employment, reimburse
18 the person in a like manner prescribed for employees in subdivision
19 (e).

20 (e) The governing board of each district shall reimburse the
21 employee for the cost, if any, of ~~this~~ *the* examination. The board
22 may provide for the examination required by this section or may
23 establish a reasonable fee for the examination that is reimbursable
24 to employees of the district complying with this section.

25 (f) (1) At the discretion of the governing board, this section
26 ~~shall~~ *does* not apply to those employees not requiring certification
27 qualifications who are employed for any period of time less than
28 a college year whose functions do not require frequent or prolonged
29 contact with students.

30 ~~The~~

31 (2) *The* governing board may, however, require the *tuberculosis*
32 *risk assessment and, if risk factors are present*, examination and
33 may, as a contract condition, require the *assessment and*
34 examination of persons employed under contract, other than those
35 persons specified in subdivision (a), if the board believes the
36 presence of these persons in and around college premises would
37 constitute a health hazard to students.

38 (g) If the governing board of a community college district
39 determines by resolution, after hearing, that the health of students
40 in the district would not be jeopardized thereby, this section ~~shall~~

1 *does* not apply to any employee of the district who files an affidavit
 2 stating that he or she adheres to the faith or teachings of any
 3 well-recognized religious sect, denomination, or organization and
 4 in accordance with its creed, tenets, or principles depends for
 5 healing upon prayer in the practice of religion and that to the best
 6 of his or her knowledge and belief he or she is free from active
 7 tuberculosis. If at any time there should be probable cause to
 8 believe that the affiant is afflicted with active tuberculosis, he or
 9 she may be excluded from service until the governing board of the
 10 employing district is satisfied that he or she is not so afflicted.

11 (h) (1) A person who transfers his or her employment from one
 12 campus or community college district to another shall be deemed
 13 to meet the requirements of subdivision (a) if the person can
 14 produce a certificate that shows that he or she *within the past four*
 15 *years had a tuberculosis risk assessment that showed no risk*
 16 *factors were present or was examined within the past four years*
 17 and was found to be free of communicable tuberculosis, or if it is
 18 verified by the college previously employing him or her that it has
 19 a certificate on file that contains that showing.

20 ~~A~~

21 (2) A person who transfers his or her employment from a private
 22 or parochial elementary school, secondary school, or nursery school
 23 to the community college district subject to this section shall be
 24 deemed to meet the requirements of subdivision (a) if the person
 25 can produce a certificate as provided for in Section 121525 of the
 26 Health and Safety Code that shows that he or she *within the last*
 27 *four years had a tuberculosis risk assessment that showed no risk*
 28 *factors were present or was examined within the past four years*
 29 and was found to be free of communicable tuberculosis, or if it is
 30 verified by the school previously employing him or her that it has
 31 the certificate on file.

32 (i) (1) Any governing board of a community college district
 33 providing for the transportation of students under contract shall
 34 require as a condition of the contract the *tuberculosis risk*
 35 *assessment and, if risk factors are present, examination for active*
 36 *tuberculosis, as provided in subdivision (a), of all drivers*
 37 *transporting the students, provided that privately students. Privately*
 38 *contracted drivers who transport the students on an infrequent*
 39 *basis, not to exceed once a month, shall be excluded from this*
 40 *requirement.*

- 1 ~~(j)~~
- 2 (2) Examinations required pursuant to *this* subdivision~~(j)~~ shall
- 3 be made available without charge by the local health officer.

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