

SECTION 8. MEDICAL EXAMINATIONS AND REASONABLE ACCOMMODATION

(As amended October 22, 2002, December 11, 2007, October 21, 2008, July 24, 2012, and June 30, 2015)

8-1. Definitions.

- (a) ***Applicant:*** In this section, applicant means an individual who has received a conditional job offer for a County merit system position.
- (b) ***Conditional offer:*** An offer of County employment that the OHR Director may withdraw if the applicant fails to meet the medical requirements for the position.
- (c) ***Direct threat:*** A significant risk to the health or safety of the applicant or employee or others that cannot be eliminated by reasonable accommodation.
- (d) ***Disability:*** A physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of such an impairment, or being regarded as having such an impairment.
- (e) ***Essential functions:*** Job tasks that are fundamental, critical, and not marginal to the position an individual holds or seeks.
- (f) ***Fitness-for-duty evaluation:*** A medical evaluation of an employee to determine if the employee has a physical or psychological condition that affects the employee's ability to perform the essential functions of the employee's job.
- (g) ***Individual with a disability:*** A person who is considered to have a disability under the Americans with Disabilities Act (ADA).
- (h) ***Job analysis:*** As used in this section, a systematic procedure for determining the physical demands, working conditions, workplace hazards, and essential functions of an occupational class.
- (i) ***Light duty:*** A temporary assignment of alternative work that an employee is qualified and able to perform when the employee is temporarily unable to perform the essential functions of the employee's job because of the employee's medical condition.
- (j) ***Light Duty Review Committee:*** A committee composed of OPT and SLT bargaining unit and management employees that recommends light duty assignments for disabled employees when the employees' departments cannot find light duty assignments for them.

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- (k) **Medical exam protocol:** The types of medical screening and medical tests that the EME requires to determine if an applicant or employee is medically suited for a particular occupation or position.
- (l) **Periodic health assessment:** A medical exam administered by the EME on a regular basis to an employee in a public safety, safety-sensitive, or physically demanding position to determine if the employee remains fit for duty.
- (m) **Physical abilities:** The expected physical demands placed on an employee or the functions that an employee must be able to perform in a particular position or occupation that dictate the medical requirements for the position or occupation.
- (n) **Qualified individual with a disability:** An individual with a disability who has the skill, experience, education, and other qualifications required for the job and who can perform the essential functions of the job with or without reasonable accommodation.
- (o) **Reasonable accommodation:** A term that means a modification or adjustment:
 - (1) to a job application process that enables a qualified applicant with a disability to be considered for the position the qualified applicant desires;
 - (2) to the work environment or to the manner or circumstances under which the position held or desired is customarily performed that enables a qualified individual with a disability to perform the essential functions of that position; or
 - (3) that enables a qualified County employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated County employees without disabilities.
- (p) **Workplace hazards:** Biological, chemical, or physical agents associated with an employee's duties or the environment where the employee performs the duties that may threaten the employee's health.

8-2. Application of this Section. The County's intent is that this Section be:

- (a) used to implement the ADA and any other applicable Federal, State, or County statute that gives greater rights or protections than the ADA to applicants or employees; and
- (b) construed in a manner consistent with the ADA and any other applicable Federal, State, or County statute that gives greater rights or protections than the ADA to applicants or employees.

8-3. Medical requirements for employment.

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- (a) An applicant who is selected for a County position must meet the medical requirements for the position before the applicant is appointed to the position.
- (b) An employee must be able to perform the essential functions of the employee's job.
- (c) If a department director transfers, promotes, or demotes an employee to a different position, the employee must meet the medical requirements for the new position.

8-4. Medical standards and guidelines for medical examinations and pre-employment inquiries.

- (a) *Policy on medical standards and guidelines.*
 - (1) The CAO must establish, consistent with the ADA:
 - (A) medical standards for positions and occupations; and
 - (B) guidelines for medical examinations and pre-employment inquiries.
 - (2) Medical standards and guidelines for medical examinations and pre-employment inquiries must be:
 - (A) job-related and used to determine if the applicant or employee can perform essential functions of the job with or without accommodation; and
 - (B) applied uniformly and consistently to all applicants and employees who are offered employment or employed in the same job class or occupational class.
 - (3) When performing medical examinations or inquiries, the EME must conduct an individualized assessment of an individual's current health status and functional capabilities:
 - (A) in relation to the essential functions, physical and psychological demands, working conditions, and workplace hazards of a particular occupation or position; and
 - (B) under appropriate occupational health guidelines and practices that are consistent with applicable Federal, State, and local statutes and regulations.

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- (4) The EME may refer an applicant or employee to another health care provider for an independent medical evaluation as necessary.
- (5) The EME must not conduct medical examinations and pre-employment inquiries to determine if an applicant or employee has a disability or the nature or severity of the disability unless the examination or inquiry is job-related and consistent with business necessity.
- (6) The EME must:
 - (A) maintain records of medical equipment maintenance and calibration;
 - (B) comply with regulatory medical testing requirements;
 - (C) educate Occupational Medical Services (OMS) staff in proper examination and testing procedures; and
 - (D) use certified laboratories for applicant and employee testing.
- (b) ***Federal standards and guidelines.*** The EME must comply with the applicable provisions of the following Federal statutes and regulations:
 - (1) Occupational Safety and Health Act;
 - (2) Civil Rights Act of 1964; Title VII;
 - (3) Drug Testing in the Workplace Act of 1988;
 - (4) Americans with Disabilities Act of 1990;
 - (5) Pregnancy Discrimination Act of 1978;
 - (6) Family Medical Leave Act of 1993.
 - (7) Occupational Safety and Health Administration (OSHA) regulations;
 - (8) The Health Insurance Portability and Accountability Act of 1996 (HIPAA);
 - (9) Federal Transit Administration (FTA) regulations (49 CFR Parts 653 and 654, as amended);
 - (10) U.S. Department of Transportation (DOT) regulations (49 CFR Part 40, as amended); and

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- (11) Federal Motor Carrier Safety Administration (FMCSA) regulations (49 CFR Parts 382 and 391.41);

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- (c) ***Maryland State standards and guidelines.*** The EME must comply with the applicable provisions of the following Maryland State statutes and regulations:
 - (1) Workers' Compensation Act;
 - (2) Fair Employment Practices Act;
 - (3) Maryland Occupational Safety and Health Act;
 - (4) Maryland public health statutes; and
 - (5) Maryland motor vehicle statutes and regulations.

- (d) ***County standards and guidelines.*** The EME must:
 - (1) comply with Montgomery County Code Chapters 27 and 33, these Regulations, and other applicable Montgomery County statutes, regulations, policies, and labor agreements; and
 - (2) review annually and update medical guidelines and medical exam protocols to maintain consistency with current professional standards and guidelines, legal and regulatory requirements, current occupational health practices, and scientific knowledge and technology.

- (e) ***Consultant's guidelines.*** The EME may rely on guidelines recommended by professional occupational and environmental health consultants under contract with the County who assist in the development of medical standards for County occupations.

8-5. Reasonable accommodation.

- (a) If the Employee Medical Examiner (EME) finds that an applicant or employee is a qualified individual with a disability that impairs the individual's ability to perform the essential functions of the job, the OHR Director must determine if the employee or applicant can be reasonably accommodated.

- (b) Reasonable accommodation may include such modifications as:
 - (1) making existing facilities used by employees readily accessible to and usable by a qualified individual with a disability;
 - (2) job restructuring;
 - (3) changing a work schedule or allowing part-time work;
 - (4) reassigning to a vacant position;

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- (5) acquiring or modifying equipment or devices;
 - (6) adjusting or modifying examinations, training materials, or policies;
 - (7) providing qualified readers or interpreters; and
 - (8) providing other similar accommodations for an individual with a disability.
- (c) Reasonable accommodation does not include recommended equipment, medical appliances, or prostheses such as wheelchairs, eyeglasses, contact lens, or hearing aids that have general use for work and outside of work.
- (d) ***Disability case management program.***
- (1) OMS staff members administer the County's disability case management program. The program helps employees with disabilities to maintain or return to County employment.
 - (2) Disability case management program staff members assist employees with disabilities to obtain reasonable accommodation, light duty, alternative placement, sick leave donations, and information about the disability retirement process.
 - (3) An employee with a disability who needs help should report a disability to the employee's supervisor or to OMS staff. An employee or the employee's supervisor may request assistance at any time during the reporting of the employee's illness or injury, recovery, or the return-to-work process.

8-6. Required medical examinations of applicants; actions based on results of required medical examinations.

- (a) ***Medical and physical requirements for job applicants.***
- (1) The OHR Director may condition a job offer on the satisfactory result of a post-offer medical examination or inquiry required of all entering employees in the same job or occupational class.
 - (2) An applicant who receives a conditional offer of employment in a County position must:
 - (A) submit a completed medical history form to OMS; and

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- (B) undergo other medical examinations or tests as required by the medical exam protocol that the EME has determined is appropriate for the County position.
- (3) An applicant must undergo a medical evaluation before being placed in a County position if the applicant is:
 - (A) offered initial County employment;
 - (B) a former County employee offered reemployment in the same position after an absence of more than 6 months.
- (4) An applicant for a Police Officer, Deputy Sheriff, or Correctional Officer position must undergo job-related pre-placement physical ability testing as part of the medical evaluation process.
- (5) An applicant for a Firefighter/Rescuer position must undergo job-related pre-placement physical ability testing conducted by the Fire & Rescue Service.
- (6) If an applicant is not appointed to the position offered within 90 days after completing the pre-placement medical evaluation, an OMS staff member must review the medical information with the applicant to determine if any information has changed. An applicant who is not appointed within 12 months after completing the pre-placement medical evaluation must undergo another complete medical evaluation before appointment.
- (7) The County may use the results of a pre-placement medical evaluation to:
 - (A) determine the individual's current ability to perform essential functions of the offered position without significant threat to the health and safety of the individual or others;
 - (B) medically certify the individual's need for a work restriction or reasonable accommodation;
 - (C) establish baseline health information on an employee that may be used to monitor changes over time; and
 - (D) detect health problems in the individual that need follow-up.
- (8) The EME must base the determination of whether an individual is medically fit for a position on the medical history and findings that directly reflect on the individual's ability to perform the essential job

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duties under the expected conditions. The EME must consider only medical findings that:

- (A) affect the individual's current ability to perform the essential job duties under the expected conditions; or
 - (B) indicate that the individual poses a direct threat to the health or safety of the individual or others.
- (9) If a current applicant had previously applied for a County position and tested positive for illegal drugs or illegal use of prescription drugs or refused a pre-employment drug test at that time, the EME as part of the current medical evaluation must require the applicant to either:
- (A) provide proof that the applicant:
 - (i) was referred to a healthcare provider for evaluation;
 - (ii) was evaluated for a substance abuse problem by the healthcare provider; and
 - (iii) successfully completed a treatment plan, if one was recommended by the healthcare provider; or
 - (B) provide a written statement, on the letterhead of the evaluating healthcare provider, that the applicant exhibits no problem with drugs or alcohol and no education or treatment is required.

(b) ***Medical exam protocols.***

(1) ***How medical exam protocols are established.***

- (A) The EME must establish a medical exam protocol for each County occupational class. The EME may include a medical history review, a physical evaluation, medical or physical tests, and consultations in a medical exam protocol.
- (B) The EME may require additional medical evaluations not included in the assigned medical exam protocol or may apply a different medical exam protocol, as appropriate:
 - (i) if one or more of the duties of a particular position or the conditions under which the duties are performed present risks or hazards not present in the duties assigned to other positions in the occupational class; or

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- (ii) if necessary to determine the applicant's ability to perform the essential functions of the job with or without accommodation.
- (C) For vision and hearing tests that are part of a medical exam protocol, the EME must use guidelines that are relevant to essential job duties, working conditions, and work hazards that are based on:
 - (i) a validated job analysis and the consensus opinion of experts;
 - (ii) applicable Federal and State regulations; or
 - (iii) standards or recommendations of national or state professional associations.

(2) ***Types of medical exam protocols.***

- (A) ***Medical History Review.*** An applicant subject to this protocol must complete a medical history form. The form is reviewed by OMS medical staff. This protocol is for:
 - (i) applicants for positions in occupational classes that are sedentary and that do not require drug screening, significant driving, or exposure to significant workplace hazards; and
 - (ii) applicants for temporary positions expected to last for 6 months or less.
- (B) ***Limited Core Exam.*** This protocol includes a medical history review, vision and hearing tests if the employee's position requires driving, and a drug test, if required for the position. Depending on the risks associated with the applicant's job, other tests and a hepatitis B vaccination may be required. This protocol is for applicants for positions in occupational classes that are subject to pre-employment drug screening and which:
 - (i) are sedentary, but driving is a recurring and significant duty; or
 - (ii) involve significant exposure to communicable diseases.
- (C) ***Core Exam.*** This protocol includes the same requirements as the limited core exam, but also includes a physical examination by a physician, urinalysis, EKG, additional blood tests, and additional

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tests for communicable diseases. A rabies vaccination may be required depending on the risks associated with the job. This protocol is for applicants for positions in occupational classes that involve:

- (i) moderate or heavy physical demands;
 - (ii) significant exposure to potentially aggressive or combative people;
 - (iii) emergency communications; or
 - (iv) frequent shift rotation.
- (D) ***Core I Exam.*** The elements of the Core I Exam may include the elements of the Core Exam and an exercise treadmill test, a test to determine blood type, and a respiratory function test. Physical ability testing is required for Police Officer, Deputy Sheriff, and Correctional Officer applicants. A Core I Exam is required for public safety classes that require formal medical monitoring under OSHA regulations or periodic health assessments to insure continued fitness for duty in occupations that involve high risks or occupations that require confined space entry and use of self-contained breathing apparatuses.
- (E) ***Core II Exam.*** The elements of the Core II Exam may include the elements of the Core I Exam and a hepatitis B vaccination and tetanus booster if medically indicated. It does not include physical ability testing or a treadmill test. This exam is required for occupational classes, other than public safety classes, with significant exposure to mixed hazards such as chemicals, noise, asbestos, dust, and respirator use and that require formal medical monitoring under OSHA regulations.
- (c) ***Pre-placement physical ability testing guidelines.***
- (1) An applicant for a Police Officer, Deputy Sheriff, or Correctional Officer position must pass physical ability tests conducted by OMS that are related to the job duties of the position. An applicant for a Firefighter/Rescuer position must undergo job-related pre-placement physical ability testing conducted by the Fire & Rescue Service. The tests for a Police Officer, Deputy Sheriff, Correctional Officer, or Firefighter/Rescuer position may include:
 - (A) measurements of strength, endurance, coordination, equilibrium, agility, and flexibility; and

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- (B) work simulations when appropriate and feasible.
- (2) A physical ability test used by the County must be:
 - (A) based on a job analysis that indicates that the physical ability is required to perform an essential job function;
 - (B) a valid and reliable measure of the required physical ability;
 - (C) applied to all applicants entering the same occupational class; and
 - (D) conducted with the use of passing scores that:
 - (i) are consistent with the results of a job analysis;
 - (ii) indicate if the job applicant is able to perform the job in a safe and efficient manner;
 - (iii) predict reliably the likelihood that the applicant will be able to perform a job duty in a manner that meets or exceeds the minimum standards for performing the duty; and
 - (iv) are consistent with the level of ability or proficiency that is considered acceptable for an employee in the current workforce.
- (3) The OHR Director or the department director must:
 - (A) notify an applicant of physical testing requirements in advance; and
 - (B) give the applicant an opportunity to obtain training advice for the test and at least one opportunity to be re-tested.
- (d) ***Application of ADA and reasonable accommodation.***
 - (1) The EME must determine if the applicant is a qualified individual with a disability under the ADA when the Employee Medical Examiner finds that an applicant has a medical condition that impairs the individual's ability to perform the essential functions of the job or would be a direct threat to the health or safety of the applicant or others.
 - (2) If the EME finds that an applicant is a qualified individual with a disability under the ADA, the department director must provide a

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reasonable accommodation, unless the OHR Director determines that accommodation would impose an undue hardship on the County.

- (3) The OHR Director may withdraw the conditional job offer and not consider the applicant for employment in that job, if:
 - (A) the EME finds that the applicant with a medical impairment is not a qualified individual with a disability under the ADA; or
 - (B) the applicant is a qualified individual with a disability under the ADA but the OHR Director has determined that reasonable accommodation would impose an undue hardship on the County.
- (e) ***Consequences if applicant refuses or fails to participate in a required medical examination.*** If an applicant refuses or fails to participate in a required medical examination that is given under established standards and guidelines, refuses or fails to provide medical records, or submits inaccurate or falsified medical forms or records, the OHR Director may withdraw the conditional job offer and not consider the applicant for employment for that job.
- (f) ***Required notice to applicant of medical problem.*** If the EME finds after an examination or evaluation of an applicant that the individual has a medical problem, the EME must notify the individual of the problem.

8-7. Required medical examinations of employees; actions based on results of required medical examinations.

- (a) ***Conditions under which an employee must participate in a medical examination.***
 - (1) An employee must participate in a medical examination if required by the OHR Director to:
 - (A) determine the employee's ability to safely perform the essential functions of the employee's job;
 - (B) comply with State or Federal law;
 - (C) determine whether the employee currently meets the medical requirements for a particular job; or
 - (D) properly evaluate the employee's request for reasonable accommodation.

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- (2) An employee who is reassigned, transferred, demoted, or promoted on a temporary or permanent basis must undergo a pre-placement medical evaluation, excluding a medical history review, if:
 - (A) the employee has been in the previous position for more than 5 years; or
 - (B) the new position requires a more extensive medical exam protocol than the employee's previous position;

(b) ***Medical monitoring.***

- (1) Employees in positions with significant exposure to hazardous materials or noise must participate in regular medical monitoring as required by State or Federal regulations.
- (2) The EME must determine the scope and frequency of medical monitoring based on the specific hazards to which the employee is exposed on the job.
- (3) The EME and the Risk Management Division of the Finance Department must determine which occupational classes, worksites, or individuals are included in a medical monitoring program under applicable State or Federal criteria.
- (4) Department directors of affected employees must ensure that designated employees are scheduled for required medical exams or tests.
- (5) The EME must comply with Section 8-10 of these Regulations when conducting any type of medical monitoring.

(c) ***Periodic health assessment.***

- (1) Employees in public safety; safety-sensitive, safety-sensitive transit, and certain occupational classes with physically demanding or hazardous duties must participate in periodic health assessments conducted by the EME.
- (2) The EME must determine which occupational classes or individuals require periodic health assessments and the content and frequency of assessments after considering the physical abilities required for the job, working conditions, workplace hazards, the individual's age and medical history, and the requirements of labor agreements.
- (3) Department directors of affected employees must ensure that designated employees are scheduled for required periodic health assessments.

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(d) ***Return-to-work clearance.***

- (1) When an employee returns to work after an absence caused by a medical condition that made the employee unable to perform the essential functions of the employee's job, the department director may require the employee to report to the EME to determine if the employee can safely perform the employee's essential job duties. The EME must evaluate the employee and advise the department director if the employee is medically able to perform the essential functions of the employee's job.
- (2) If a department director allows an employee with a confirmed positive drug or alcohol test result to return to work, the employee must undergo a return-to-work assessment by the EME.

(e) ***Fitness-for-duty evaluation.***

- (1) A department director should request a fitness-for-duty evaluation of an employee if the employee indicates that the employee's decreased performance or performance problem has a medical basis.
- (2) A department director may request a fitness-for-duty evaluation of an employee if the employee's observed behavior indicates the employee may be physically incapable of performing the full range of the employee's job duties. This should only be done in unusual circumstances and after consulting with the OHR Director.
- (3) A department director may request a fitness-for-duty evaluation of an employee if the employee's observed behavior indicates the employee may be mentally incapable of performing the full range of the employee's job duties. A department director should do this only in unusual circumstances and after obtaining the concurrence of the OHR Director.
- (4) The OMS disability case management program staff may recommend a fitness-for-duty evaluation of an employee.
- (5) A department director must request a fitness-for-duty evaluation in writing and send a copy of the request to the employee. The department director must also provide the following information to the EME in writing:
 - (A) name and position of the referred employee;
 - (B) reason why the request is being made, with as many specific examples as possible of the employee's behaviors that prompted the request or examples of job-related problems that pose a direct threat to the employee or others;

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- (C) description of the essential functions of the employee's job or other information pertinent to the job; and
 - (D) a contact person and the person's phone number.
- (6) After the EME completes the evaluation, the EME must give the department director a written recommendation on whether the employee is fit for duty. The EME must give a copy of the recommendation to the employee.
- (f) ***Evaluation for commercial driver's license.***
- (1) OMS must ensure that employees who are assigned duties involving driving or the operation of motorized vehicles meet applicable medical standards.
 - (2) OMS must determine if employees are medically qualified to operate commercial motor vehicles in interstate commerce under FMCSA regulations. OMS evaluates these employees every 2 years unless the driver has a medical condition that requires more frequent monitoring.
- (g) ***Application of ADA and reasonable accommodation.***
- (1) If the EME finds that an employee has a medical condition that impairs the individual's ability to perform the essential functions of the job or would be a direct threat to the health or safety of the employee or others, the EME must determine if the employee's impairment is:
 - (A) short-term, meaning temporary, non-chronic, or expected to be of short duration; or
 - (B) long-term, meaning permanent, chronic, or expected to be of long duration.
 - (2) The department director may take the following actions when the EME determines that the employee's disability is likely to be short-term:
 - (A) allow the employee to use appropriate leave; or
 - (B) temporarily place the employee in a light duty assignment.
 - (3) If the EME finds that an employee's inability to safely perform the essential functions of the job is long term, the EME must determine if the employee is an individual with a disability.

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- (4) The department director must first try to reasonably accommodate an employee with a disability in the employee's current job unless the OHR Director determines that accommodation in the current job would impose an undue hardship on the County. An employee who is not disabled is not entitled to reasonable accommodation.
- (5) If the employee is an individual with a disability who cannot perform the essential functions of the current job with or without accommodation or if accommodation would impose an undue hardship on the County, the department director may:
 - (A) reassign the employee through a voluntary transfer or demotion to a vacant position for which the employee is qualified, with essential duties that the employee can perform with or without accommodation; or
 - (B) terminate the employee's County employment, if the employee is not reassigned to a vacant position.
- (h) ***Light duty evaluation; duration of light duty assignment.***
 - (1) ***Light duty evaluation.***
 - (A) An employee or department director may ask the EME to evaluate an employee for light duty if the employee's healthcare provider recommends that the employee's job duties or working conditions be temporarily modified because of the employee's health condition.
 - (B) After completing the evaluation, the EME must provide a written health status report to the employee and department director that indicates the recommended restrictions and the expected duration of the restrictions.
 - (C) The EME must approve an employee's return to full duty.
 - (2) ***Duration of light duty assignment.*** A department director must not allow an employee's light duty assignment to last longer than 6 months.
- (i) ***Work restrictions.*** If the EME finds that the employee, because of the employee's medical condition, can perform some or most of the essential functions of the employee's job but cannot perform certain job functions or must be restricted in the manner that the employee performs certain job functions, the EME must inform the employee and the department director in writing of:
 - (1) the nature of the restriction;

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- (2) whether the restriction is short-term or long-term;
 - (3) the expected duration of the restriction; and
 - (4) whether the employee must be re-evaluated in the future.
- (j) ***Consequences if an employee refuses or fails to participate in a required medical examination.*** If an employee refuses or fails to participate in a medical examination or a fitness-for-duty evaluation, refuses or fails to provide medical records, or submits inaccurate or falsified medical forms or records, the department director may take disciplinary action against the employee or may terminate the employee's employment with the County.
- (k) ***Required notice to employee of medical problem.*** If the EME finds after an examination or evaluation of an employee that the individual has a medical problem, the EME must notify the individual of the problem.

8-8. Medical reports on applicant or employee fitness. After a required medical examination, the EME must:

- (a) prepare a written report of the medical findings and a determination of the individual's fitness for the position;
- (b) maintain this report as part of the individual's official medical record; and
- (c) advise the applicant or employee in writing if the EME finds the individual to be medically unqualified, the reason for the disqualification, and the manner in which the individual may appeal the decision.

8-9. Voluntary medical services offered to employees.

- (a) ***Policy on medical services offered to employees.***
 - (1) The OHR Director, through programs administered by the EME or by other community health organizations, may conduct voluntary medical examinations, offer medical advice, conduct tests, administer treatments or preventive therapies, and monitor various health conditions as part of an employee health or wellness program made available to employees. An employee's participation in these programs is voluntary.
 - (2) Results or records of voluntary medical examinations, tests, or treatments must be provided only to the employee.
 - (3) The EME must not maintain records related to voluntary medical examinations, tests, or treatments unless:

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- (A) the EME is required to maintain records under Federal, State, or local statutes or regulations; or
 - (B) the employee provides the EME with a copy of such a record and requests in writing that the record be maintained as part of the employee's medical records.
- (b) ***Communicable disease program.***
- (1) OMS must offer free voluntary preventive immunizations, as required by OSHA, to employees at significant risk for life-threatening or disabling communicable diseases because of their occupations or job assignments.
 - (2) The EME must determine which occupational classes or job assignments involve significant risk for communicable disease exposure and what preventive measures must be taken by:
 - (A) following the guidelines recommended by the Centers for Disease Control and Prevention and applicable State and Federal regulations; and
 - (B) reviewing the job duties and hazards of County employees.
 - (3) OMS and the Risk Management Division, Finance Department, must assist department directors in identifying and training employees at risk for communicable disease exposure and in selecting protective equipment for these employees to use.
 - (4) OMS must:
 - (A) provide a 24-hour hot line with information about first aid and referral for employees exposed to blood-borne pathogens;
 - (B) offer consultation; and
 - (C) maintain medical records required under Federal and State regulations.

8-10. Collection and use of genetic information on employees.

- (a) The EME may use genetic information about an employee and consider the employee's genetic status to evaluate whether a disease, medical condition, or disability that is currently present is preventing the employee from performing the essential functions of the employee's position, if:

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- (1) the genetic information is given to the employee, in writing, as soon as the information is available;
 - (2) the genetic information is not disclosed to any other person (including the County as employer or the OHR Director and designees) without the employee's voluntary, written consent;
 - (3) the genetic information is maintained as part of the employee's medical record, which is kept separate from the employee's other employment records; and
 - (4) no other law prohibits the EME from collecting or using the genetic information or the County from considering the disease or disability or the employee's genetic status.
- (b) The EME may conduct genetic monitoring of biological effects of toxic substances in the workplace if:
- (1) the employee has provided prior voluntary, informed consent in writing to participate in the monitoring;
 - (2) the employee receives the results of the monitoring, including both aggregate information and any information regarding the specific employee as soon as the results are available;
 - (3) the monitoring complies with all other laws, such as laws protecting human subjects in research; and
 - (4) the County receives results of the monitoring only in aggregate terms that do not disclose the identity of any specific employee.

8-11. Appeals by applicants and grievance rights of employees.

- (a) A non-employee applicant or employee applicant who is disqualified from consideration for a position or rated as medically unfit for appointment to a position may file an appeal directly with the MSPB under Section 35 of these Regulations.
- (b) An employee with merit system status who is adversely affected by an alleged improper, unfair, or inequitable application of the County's regulations on medical examinations and reasonable accommodation may file a grievance under Section 34 of these Regulations.

MCPR, 2001 SECTION 8, MEDICAL EXAMINATIONS AND REASONABLE ACCOMMODATION

Editor's note – The subjects covered in this section of the Personnel Regulations are addressed for bargaining unit employees in the current collective bargaining agreements as indicated below:

Bargaining unit	Articles of current agreements with references to medical examinations, disability, reasonable accommodation, or light duty
Firefighter/Rescuer	10, Disability Leave
OPT/SLT	5, Wages, Salary and Employee Compensation 33, Light Duty 34, Safety and Health Appendix VIII, Reasonable Accommodation
Police	11, Chronic Incapacity 17, Disability Leave and Injury on the Job 23, Maintenance of Standards/Retention of Benefits and Conditions 35, Vehicles 37, Special Medical Examinations