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DIRECTOR OF PERSONNEL

# COUNTY OF LOS ANGELES DEPARTMENT OF HUMAN RESOURCES

## HEADQUARTERS

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June 27, 2023

To: All Department Heads

From: Lisa M. Garrett   
Director of Personnel

### **REVISIONS TO CIVIL SERVICE RULE 9 – MEDICAL STANDARDS FOR EMPLOYMENT AND RELATED COUNTYWIDE HUMAN RESOURCES POLICIES**

Over the past several years, the Department of Human Resources (DHR) has been leading the transition to a new Countywide framework for Disability Management & Compliance (DMC). The new framework serves to standardize the County's approach to this work and, most importantly, ensure full alignment with applicable State and federal law. I am proud to share that we have now reached another major milestone in this critical process.

On May 23, 2023, the County of Los Angeles (County) Board of Supervisors approved revisions to *Civil Service Rule (Rule) 9 – Medical Standards for Employment* (Attachment I) to better reflect applicant, employee, and employer rights and best practices in the field of disability management. This represents the first major change in the Rules that govern the County's civil service system in over 30 years, which further reinforces the importance of our disability management processes.

Key changes to Rule 9 include:

- Reiterating that the Director of Personnel has the authority to establish medical standards of employment, which includes standards for medical examinations and medical inquiries for applicants and employees.
- Acknowledging that all County medical standards comply with applicable State and federal law, most notably the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, the California Fair Employment and Housing Act (FEHA), and applicable implementing regulations.
- Clarifying that if medical standards established under the Rule conflict or contravene the provisions of applicable federal or California laws or regulations in any way, those laws or regulations prevail.

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- Striking existing language in the Rule that prescribes the medical examination, review of medical findings, determination of qualifications, and accommodation of incapacitated employees and applicants so these processes can be more comprehensively addressed through policy.

In alignment with the updates to Rule 9, DHR is now revising the Countywide Policies, Procedures, and Guidelines (PPGs) that govern the County's accommodation and medical examination processes. As a part of that comprehensive review and revision, the following policies have been deemed to be *no longer operative and will sunset, effective immediately*:

- **PPG 601: Return to Work**
- **PPG 607: Executive Medical Examinations**
- **PPG 619: Revised Medical Examination Procedure for Applicants for Temporary or Part-Time Light Duty Positions**
- **PPG 621: Interdepartmental Placement of Employees Returning to Work Following Approved Leave**

The expired policies are now being replaced with four new PPGs that were developed through close partnership with the Chief Executive Office, County Counsel, and external disability management experts. These new PPGs, which oversee the major activities found within the County's Disability Management and Compliance Framework, are attached to this memo for your reference. These policies will also be uploaded to the County's Human Resources Policy website at <https://my.lacounty.gov/county-policies>. A brief description of each policy is also provided below:

- **PPG 625: PEPO Medical Examination (*Attachment II*)**  
Establishes the standards and procedures for conducting Pre-Employment / Post-Offer Medical Examinations (PEPO) for certain applicants who have received conditional job offers from the County.
- **PPG 626: Fitness for Duty Evaluations (*Attachment III*)**  
Supports the County's commitment to a safe and healthy work environment and the protection of the public by ensuring that each employee can perform their essential job functions in a safe, secure, and effective manner. This policy prescribes the circumstances under which an employee may be referred for a Fitness for Duty Evaluation (FFDE).
- **PPG 627: Interactive Process and Reasonable Accommodation (*Attachment IV*)**  
Describes the County's framework for holding an Interactive Process Meeting (IPM) to determine appropriate reasonable accommodation(s), as needed, in accordance with the requirements of the ADA and FEHA, as well as other related State or federal laws and regulations.

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- **PPG 628: Medical Release or Reassignment (*Attachment V*)**

This policy describes the circumstances under which an employee may be medically released from County service or reassigned to a different employment position based on the results of a Fitness for Duty Evaluation or other competent medical or legal evidence.

Trainings on the new policy components, which include a description of the updated interactive process meeting, accommodations, medical and psychological evaluations, and medical reassignment expectations, will be provided to Departmental Human Resources Managers and Departmental DMC Coordinators through DHR's Occupational Health and Leave Management Division.

Should you have any questions, please contact me or Maggie Martinez, Assistant Director DHR, at [MMartinez@hr.lacounty.gov](mailto:MMartinez@hr.lacounty.gov) or (213) 351-2921.

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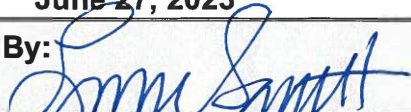
Attachments (5)

c: Chief Deputies  
Administrative Deputies  
Departmental Human Resources Managers

S:\HRDS\CSR 9\LMG to DHs re CSR 9 and PPG Updates – 06-27-2023



*County of Los Angeles*  
*Department of Human Resources*  
**POLICIES, PROCEDURES, AND GUIDELINES**

<b>Subject:</b>  <b>PRE-EMPLOYMENT/POST-OFFER MEDICAL EXAMINATIONS</b>	<b>Policy Number:</b> <b>625</b>	<b>Pages:</b> <b>8</b>
	<b>Effective Date:</b> <b>June 27, 2023</b>	
	<b>Approved By:</b> 	

## **PURPOSE**

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The Department of Human Resources Director of Personnel or designee (Director of Personnel), establishes medical standards for County employment including, but not limited to, standards for **Pre-Employment/Post-Offer Medical Examinations (PEPO)** for Applicants.

The purpose of this policy is to ensure the County's commitment to providing equal employment access to all qualified Applicants and to promote consistency in hiring practices and job-related medical examinations of Applicants who have received conditional offers of employment for County positions.

## **POLICY**

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The County of Los Angeles (County) may require a medical and/or psychological examination and/or make a medical and/or psychological inquiry of an Applicant only after a conditional employment offer has been made and once all non-medical components of the application process have been completed. Before making an employment offer, the County will not require Applicants to take a medical or physical examination, answer questions related to medical conditions, or answer questions that are likely to elicit information about a disability.

PEPO medical examinations must be conducted prior to the commencement of employment duties, must be job-related and consistent with business necessity and done to determine the Applicant's ability to perform the essential job functions, with or without a reasonable accommodation. All Applicants applying to the same job classification are subject to the same examination or inquiry. The results of any PEPO medical examination will be kept confidential. Examinations will not be used to discriminate against any Applicant, including Applicants with disabilities.

Applicants for positions that are safety-sensitive, or physically or psychologically demanding in nature, as determined by the Director of Personnel or where required by

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law, must undergo a PEPO Medical Examination. Applicants for positions that are primarily administrative in nature, as determined by the Director of Personnel, will not be required to undergo a PEPO Medical Examination, unless required by law. Current employees seeking positions that are safety-sensitive or have greater physically or psychologically demanding job duties as compared to the employee's current position or where required by law must undergo a PEPO Medical Examination.

PEPO Medical Examinations may include medical or psychological examinations, inquiries, functional capacity tests to determine physical abilities, and any other job-related medical tests or inquiries needed to make a determination as to an Applicant's ability to perform the essential functions of the applied-for job with or without a reasonable accommodation.

All PEPO Medical Examinations, unless otherwise authorized by the Director of Personnel, must be conducted by County-designated occupational health providers who will conduct a PEPO Medical Examination that takes into account any identified limitations of the Applicant, and the physical, psychological, safety sensitive, and environmental demands associated with the applied-for job.

Volunteers and interns who will be placed in safety-sensitive or physically or psychologically demanding assignments, or where required by law, may also be subject to a PEPO Medical Examination, as appropriate, prior to the commencement of the assignment.

Each County Department has an affirmative duty to make reasonable accommodation for the disability of any Applicant if it knows of the disability, unless it can demonstrate, after engaging in the Interactive Process, that the accommodation would impose an undue hardship. A timely, good-faith Interactive Process Meeting (IPM) must be conducted in accordance with, and Reasonable Accommodation must be consistent with Policies, Procedures, and Guidelines Number 627 – *Interactive Process & Reasonable Accommodation*.

#### County Commitment to the Equal Employment Policy

The County is committed to providing equal employment access to all qualified Applicants and employees, and a workplace free of discrimination and harassment regardless of age (40 and over); ancestry; color; ethnicity; religious creed (including religious dress and grooming practices); denial of family and medical leave; disability (including mental and physical disability); marital status; medical condition (cancer and genetic characteristics); genetic information; military and veteran status; national origin (including language use restrictions); race (including traits historically associated with race - which includes but is not limited to - hair texture and protective hairstyles); sex (including pregnancy, childbirth, breastfeeding, and medical conditions related to pregnancy, childbirth, or

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breastfeeding); gender; (including gender identity; and gender expression); sexual orientation; and any other legally protected category, in accordance with federal and State laws and County ordinances.

## **DEFINITIONS**

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The following definitions are provided solely as a guide to assist in the interpretation and application of this policy and are based on related federal and State laws and regulations, and cases interpreting those laws and regulations. The following definitions may be subject to change due to a change in applicable law.

**Applicant:** A person who applies for employment with the County. The term "Applicant" includes individuals who have not been employed by the County in the past, current County employees applying for a different position within the County, and individuals who have previously separated from County employment and seek to be rehired. The term "Applicant" is synonymous with the term "candidate".

**Interactive Process:** A timely, good faith communication between the department and an employee or applicant to explore whether or not the employee or applicant needs reasonable accommodation for their disability to perform the essential functions of the job, and, if so, how the individual can be reasonably accommodated. The process is used to identify reasonable accommodations that would allow an Applicant to perform the essential duties of the job in a manner that would not endanger the health or safety of the Applicant or others. An employee or Applicant may choose to have a representative included in the interactive process.

**Interactive Process Meeting (IPM):** A meeting which takes place between the Department Disability Management & Compliance Personnel and either the employee and their supervisor or manager, or an Applicant. An employee or Applicant may choose to have a representative present in the IPM. The IPM is designed to discuss issues such as the essential functions of the position, the Applicant's work restrictions, or any changes in work restrictions. The IPM is intended to identify potential reasonable accommodations, if any, that would permit the Applicant to perform the essential functions of the position.

**Medical Examination or Inquiry:** A procedure or test included as a component of the PEPO Medical Examination and performed by a County-designated health care provider. The provider conducting the medical examination will seek the minimum amount of information necessary to determine an applicant's job-related physical condition, disabilities or health only. The PEPO Medical Examination may include testing for current illegal drug use.

**Pre-Employment/Post-Offer (PEPO) Medical Examination:** A process comprised of a Medical and/or a Psychological Examination or Inquiry of an Applicant made after a

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conditional employment offer has been made, but prior to the commencement of employment duties. The examination or inquiry must be job-related and consistent with business necessity; all Applicants applying for the same job classification are subject to the same examination or inquiry.

**Psychological Examination or Inquiry:** A procedure or test included as a component of the PEPO Medical Examination and performed by a County-designated health care provider. The psychological examination seeks or obtains information about an Applicant's job-related psychological/mental condition, disabilities or health, but does not include testing for current illegal drug use.

## **GUIDELINES**

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### **I. PEPO Medical Examinations**

Once a hiring department has extended a conditional offer of employment to an Applicant and has completed all non-medical components of its application process, the department may refer the applicant to a County-designated occupational health provider to undergo a PEPO Medical Examination. The PEPO Medical Examination must be completed prior to commencement of employment duties. The hiring department must notify the Department of Human Resources (DHR) Occupational Health Programs (OHP) at the time the referral is made.

Following the PEPO Medical Examination, the County-designated occupational health provider will issue a Findings Report for general jobs, or a Medical Suitability Declaration for jobs regulated by Peace Officer Standards and Training (P.O.S.T.) to OHP, designating one of the following findings:

#### **A. Findings for General Job Applicants:**

- i. Release without Work Restrictions. The Applicant is able to assume the job duties of the position with no work restrictions.
- ii. Release with Work Restrictions. The Applicant has work restrictions that may impact the ability to fully and safely perform the essential functions of the job. The hiring department will engage in a timely, good-faith Interactive Process with Applicants who are issued work restrictions.
- iii. Inability to Make a Determination. Where the County-designated occupational health provider is unable to make a determination as to whether an Applicant can be released to work with or without work restrictions, OHP will consult with the occupational health provider to provide assistance or direction in order for a Release With or Without Work Restrictions to be made.

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**B. Medical Suitability Declaration for Peace Officer Applicants:**

All peace officer Applicants are subject to the provisions of the P.O.S.T Commission Regulations of 1954 in compliance with the Peace Officer Medical Evaluation requirements.

- i. Certify that Applicant is Medically Suitable. The Applicant is able to assume the job duties of the position with no work restrictions. Where applicable, the Medical Suitability Declaration may provide work restrictions that can be accommodated under P.O.S.T, e.g. use of soft contacts or glasses.
- ii. Unable to Certify that Applicant is Medically Suitable. The County-designated occupational health provider is unable to certify that an Applicant is medically suitable to perform the duties and responsibilities of the public safety officer job as defined by the hiring department and P.O.S.T regulations. These Applicants must be engaged in a timely, good faith Interactive Process by the hiring department. This process is used to determine if there is a reasonable accommodation consistent with P.O.S.T regulations that would allow the Applicant to perform the essential duties of the job in a manner that would not endanger the health or safety of the candidate or others.

**II. Right to Provide an Independent Medical Opinion (IMO)**

If an Applicant does not concur with the Findings Report or a Medical Suitability Declaration issued by the County-designated occupational health provider, they will have the opportunity to submit an Independent Medical Opinion (IMO) provided by the Applicant's medical provider(s) for evaluation by the County-designated occupational health provider. If an applicant submits an IMO, the County-designated occupational health provider will issue a final Findings Report or Medical Suitability Declaration which takes into consideration the IMO provided by the applicant's medical provider(s). The final Findings Report or Medical Suitability Declaration and any work restrictions will be provided to the Applicant and hiring department by OHP. If the final Findings Report or Medical Suitability Declaration contains work restrictions, it will be used to inform the Interactive Process Meeting (IPM).

**III. Obligation to Explore Reasonable Accommodation with Applicants**

Each County Department has an affirmative duty to provide a reasonable accommodation for the disability of any Applicant if it knows of the disability, unless it can demonstrate, after engaging in the Interactive Process, that any accommodation would impose an undue hardship, or that the accommodation would endanger the health or safety of the Applicant or of others.

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A final Findings Report with work restrictions, or Medical Suitability Declaration that cannot certify an Applicant is medically suitable to perform the peace officer duties and responsibilities, will require County Departments to engage in a timely, good faith Interactive Process with the Applicant, and must include an Interactive Process Meeting (IPM). The IPM is to be conducted in accordance with, and Reasonable Accommodation must be consistent with Policies, Procedures, and Guidelines Number 627 – *Interactive Process & Reasonable Accommodation*.

#### **IV. Rescission of Conditional Offer of Employment**

A department may rescind a conditional offer of employment based on the findings of a PEPO Medical Examination, **only** if it is determined after the department engages an Applicant in an IPM that: 1) the Applicant is unable to perform the essential duties of the job with or without a reasonable accommodation; or, 2) the Applicant's performance on the job, with or without a reasonable accommodation, would endanger the health or safety of the Applicant or of others.

#### **V. Appeal Rights After Rescission of Conditional Offer of Employment**

Applicants whose conditional offer of employment is rescinded based on the outcome of an IPM conducted as a result of a PEPO Medical Examination, will be provided written notification of their right to file an appeal. All appeals must be filed in writing with DHR within 10 business days from the postmark date of the notice and contain specific facts and information which demonstrate where the error occurred. A department must notify the Applicant of the appeal rights in writing and the notice should include the following language:

If you disagree with the determination of the department in rescinding the conditional offer of employment, you may file an appeal with the Department of Human Resources. The appeal must be in writing and provide specific facts and information which demonstrate where the error occurred. Any appeal that fails to contain such information will be denied as insufficient. The appeal must be received by the Appeals Program within 10 business days from the postmark date on the envelope in which this notice was mailed, by using this web address: <https://eappeals.lacounty.gov>. For technical support related to online appeal submissions go to <http://apps.hr.lacounty.gov/eAppeal/>

#### **VI. Privacy Rights**

Privacy and confidentiality of all information obtained in the PEPO Medical Examination process must be adhered to in accordance with applicable State and federal laws and regulations. Results of PEPO Medical Examinations are maintained by the County-

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designated occupational health providers and are accorded confidentiality as medical records. Findings Reports and Medical Suitability Declarations, which do not contain medical information, are provided to the County.

## REFERENCES

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EEOC Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act (ADA)

## AUTHORITIES

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- EEOC BOS Policy 9.010, *Equal Employment Opportunity Non-Discrimination Policy Statement and Poster*
- BOS Policy 9.015, *County Policy of Equity*
- County of Los Angeles Civil Service Rule 3 – *Administration*
- County of Los Angeles Civil Service Rule 6 – *Applications and Applicants*
- County of Los Angeles Civil Service Rule 9 – *Medical Standards for Employment*
- Department of Human Resources, Policies, Procedures and Guidelines Number 812, *County Policy of Equity*
- Los Angeles County Code Chapter 5.09 *Policy of Equity*
- Americans with Disabilities Act of 1990, 42 U.S.C. §12101, et seq., as amended by the ADA Amendments Act of 2008 and its implementing regulations at 29 C.F.R. § 1630 et seq.
- California Government Code § 1031
- California Fair Employment and Housing Act, California Government Code § 12940 et seq.
- California Code of Regulations, Title 2, Section 11065 (Definitions)
- California Code of Regulations, Title 2, Section 11067 (Defenses)
- California Code of Regulations, Title 2, Section 11068 (Reasonable Accommodation)
- California Code of Regulations, Title 2, Section 11069 (Interactive Process)
- California Code of Regulations, Title 2, Section 11071 (Medical and Psychological Examinations and Inquiries)
- California Code of Regulations, Title 2, Section 11072 (Employee Selection)
- California Code of Regulations, Title 11, Section 1954 (Peace Officer Medical Evaluation)

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**DATE ISSUED/REVIEW DATE**

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Original Issue Date: **June 27, 2023**



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## **PPG 625 - PRE-EMPLOYMENT / POST-OFFER (PEPO) MEDICAL EXAMINATIONS**

### **Frequently Asked Questions**

#### **1. Do all classifications require a Pre-Employment/Post-Offer (PEPO) medical and/or psychological evaluation?**

No, not all classifications are subject to the PEPO process. Only applicants for positions that are safety-sensitive, physically and/or psychologically demanding in nature as determined by the Director of Personnel or as required by law will need to go through PEPO medical and/or psychological evaluations.

#### **2. When are the PEPO medical and/or psychological evaluations conducted?**

PEPO medical and/or psychological evaluations are conducted **after** a bona fide conditional offer has been extended to an applicant and after all non-medical and/or psychological components of the background check process have been completed.

#### **3. Can I go to my own doctor to have my PEPO medical or psychological examination done?**

No, all PEPO medical and/or psychological evaluations must be conducted by occupational health providers that have been designated by the County of Los Angeles (County), unless otherwise authorized by the Director of Personnel. This ensures that all applicants applying for the same job classification are subject to the same examination processes and standards.

#### **4. What happens after a PEPO medical and/or psychological evaluation?**

Once the PEPO medical and/or psychological evaluation is complete, the occupational health provider that was designated by the County will issue a Findings Report for general jobs or a Medical Suitability Declaration for positions regulated by Peace Officer Standards and Training (POST) to the Department of Human Resources' (DHR) Occupational Health Programs (OHP). Such reports do not contain medical and/or psychological diagnosis and information and will only communicate whether the applicant is able to assume the job duties of the position

with or without work restrictions, or if further data is needed to make an accurate assessment of the applicant's suitability to the job.

**5. What if the applicant does not agree with the medical and/or psychological Findings Report or the Medical Suitability Declaration that was provided by the County-designated occupational health provider?**

The applicant has the right to provide an Independent Medical Opinion (IMO) by their own medical provider(s) or an independent psychologist. The IMO will be evaluated by the County-designated occupational health provider, who will then issue a final Findings Report or Medical Suitability Declaration which takes into account any new information provided through the IMO. The IMOs for the psychological evaluations would be reviewed by the Chief of Psychological Services and the DHR-Counseling and Evaluation Section. In both cases, the final Findings Report or Medical Suitability Declaration and any work restrictions will be provided to the applicant and hiring department by OHP.

**6. Can the department rescind a conditional offer based on the findings of a PEPO medical and/or psychological evaluation?**

If the final Findings Report or Medical Suitability Declaration contains a work restriction(s), the hiring department must engage the applicant in a good faith Interactive Process meeting (IPM). The hiring department may rescind an applicant's conditional offer of employment only after an IPM has been conducted and it has been determined by the hiring department that there is no reasonable accommodation that would allow the applicant to perform the essential functions of the job without endangering the health and safety of the applicant or others.

**7. Can the rescission of a conditional offer of employment be appealed?**

Yes. If the applicant disagrees with the determination of the department, they may file an appeal with the DHR Appeals Unit. The appeal must be received by the DHR Appeals Unit within ten (10) business days from the postmarked date on the envelope or e-mail which includes the rescinding notice. DHR Appeals may be filed at <https://eappeals.lacounty.gov>. For technical support related to online appeal submissions, applicants may go to <http://apps.hr.lacounty.gov/eappeal>.