

PART I
D.C. PERSONNEL REGULATIONS
CHAPTER 20B
HEALTH
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D.C. PERSONNEL REGULATIONS**2000 GENERAL PROVISIONS**

- 2000.1 The District of Columbia government is committed to providing a safe and secure workplace for its employees. To provide a safe and secure workplace, employees must be able to perform their duties in a safe, secure, productive, and effective manner.
- 2000.2 Each individual selected for an appointment in the District of Columbia government must be able to perform the essential functions of his or her job, with or without reasonable accommodation(s).
- 2000.3 Unless otherwise specified in this chapter, medical evaluations are to be made by physicians or practitioners, and determinations regarding essential functions of the job are to be made by supervisors and managers based on the employee's practical day-to-day responsibilities and the employee's position description.
- 2000.4 Agencies shall maintain medical records in a manner that ensures the greatest degree of privacy for applicants, candidates, and employees. Medical records shall not be released to any party except as authorized by Chapter 31, federal and District of Columbia laws, regulations, or court order.

2001 APPLICABILITY

- 2001.1 Unless otherwise provided by law, this chapter shall apply to all District government applicants, candidates, employees, and volunteers, except for:
- (a) Uniformed members and applicants for uniformed positions in the Fire and Emergency Medical Services Department and the Metropolitan Police Department, who shall be covered by Chapter 8; and
 - (b) Employees covered by the public-sector workers' compensation provisions in D.C. Municipal Regulations, Title 7, Chapter 1.

2002–2003 RESERVED**2004 PHYSICAL AND MENTAL QUALIFICATIONS REQUIREMENTS**

- 2004.1 Personnel authorities may establish physical and mental qualification requirements that are necessary to perform a specific job or class of jobs. Any physical or mental qualification requirement established by a personnel authority shall:
- (a) Be related to the essential job function(s) of the specific job or class of jobs, and is consistent with business necessity;
 - (b) Be designed to ensure consideration of individuals having the minimum ability necessary to perform the essential job functions efficiently without posing a

significant risk of substantial harm to his or her health or safety, or the health or safety of others; and

- (c) List disqualifying medical conditions only when specific physical or mental capabilities are required to safely and satisfactorily perform essential job functions and those functions cannot be safely or satisfactorily performed with the disqualifying medical condition.

2004.2 The personnel authority may require an individual who has applied for or occupies a position with established physical or mental requirements, including requirements for selection or retention, or established occupational or environmental standards, to undergo a medical evaluation:

- (a) After an offer of employment has been made to a job applicant and prior to appointment (including reemployment based on full or partial recovery from a medical condition);
- (b) On a regularly recurring, periodic basis; or
- (c) Whenever there is an objectively reasonable concern about an employee's continued capacity to meet the established physical or mental requirements of the position.

2004.3 The personnel authority may disqualify an applicant or candidate, or direct an agency to separate an employee or volunteer, if the applicant, candidate, employee, or volunteer is found to be unable to meet established physical or mental requirements of his or her position.

2004.4 The personnel authority shall adhere to the physical and medical qualification requirements contained in Subtitle B of Title 49 of the Code of Federal Regulations (C.F.R.) for positions that require a commercial driver's license.

2005 ORDERING MEDICAL EVALUATIONS

2005.1 Regardless of whether physical or mental health requirements have been established for a position, a personnel authority may require an employee to undergo a medical evaluation when there is a reasonable concern as to the employee's continuing ability to physically or mentally carry out the essential functions of his or her position or when an employee's work-related conduct or performance raises concerns relating to the health or safety of the employee or others.

2005.2 Orders to undergo a medical evaluation shall:

- (a) Be in writing;
- (b) Inform the employee of the reason(s) the agency is ordering the medical evaluation;

- (c) State what action(s) the employee must take to comply with the order, including whether to bring medical records to the evaluation; and
- (d) State the consequences for failing to comply with the order.

2005.3 Whenever the personnel authority directs an employee to undergo a medical evaluation, the personnel authority may direct that the employee:

- (a) Be examined by his or her personal physician or practitioner; or
- (b) Be examined by a physician or practitioner designated by the personnel authority.

2005.4 The personnel authority may order a psychiatric examination (including a psychological assessment) only when recommended by a physician or practitioner, or when other medical records reasonably support the need for such an examination.

2005.5 Medical evaluations conducted under this section shall be conducted to evaluate the capacity of the employee to perform the essential job functions of his or her position.

2005.6 The cost of the medical evaluation shall be the responsibility of the employing agency.

2005.7 Whenever a medical evaluation is conducted by a physician or practitioner designated by the personnel authority, the personnel authority shall consider any medical records supplied by the employee from his or her personal health care physician(s) or practitioner(s).

2005.8 The personnel authority shall provide the evaluating physician or practitioner with a copy of all approved medical evaluation protocols and any applicable medical qualifications and requirements for the position, or a detailed description of the essential job functions of the position, including physical demands and environmental factors.

2006 MEDICAL EVALUATION DETERMINATIONS

2006.1 Whenever a medical evaluation establishes that an employee is temporarily unable to perform all of his or her essential job functions, the personnel authority may:

- (a) Detail the employee to a more appropriate position;
- (b) Temporarily change the employee's tour of duty; or
- (c) In consultation with the agency Americans with Disabilities Act (ADA) Coordinators, temporarily provide the employee reasonable accommodation(s) to enable him or her to perform the essential job functions.

2006.2 Whenever a medical evaluation establishes that an employee is permanently incapable of performing one (1) or more of his or her essential job functions, the personnel authority shall:

- (a) Collaborate with the employee and the employing agency ADA Coordinators to determine whether a reasonable accommodation can be made that will enable the employee to perform the essential job functions, involving the D.C. Office of Disability Rights for technical assistance and guidance when necessary;
- (b) If no such reasonable accommodation can be made, work with the employing agency to non-competitively reassign the employee to another position for which the employee qualifies and can perform the essential job functions with or without a reasonable accommodation;
- (c) If the employee cannot be reasonably accommodated or reassigned to a new position, the personnel authority shall advise the employee of applicable disability and retirement programs, and the program eligibility requirements; and
- (d) Separate the employee, either through a retirement program or Chapter 16.

2006.3 Whenever a medical evaluation establishes that the employee is fit to carry out the essential job functions, and the employee continues to be deficient in either conduct or performance, the personnel authority may take administrative action against the employee pursuant to Chapters 14 and 16.

2007–2009 RESERVED

2010 EMPLOYEE ASSISTANCE PROGRAM

2010.1 The District of Columbia government shall provide an Employee Assistance Program (EAP) designed to address many personal challenges faced by employees.

2010.2 The Director of the D.C. Department of Human Resources (DCHR Director) shall administer the EAP.

2010.3 The EAP shall provide counseling and assistance to employees who are experiencing problems that may adversely affect work performance or conduct on the job including, but not limited to, the following:

- (a) Family and marital problems;
- (b) Financial difficulties;
- (c) Emotional or mental illness;
- (d) Identity theft difficulties;
- (e) Legal difficulties;
- (f) Lactation support; and
- (g) Substance abuse problems.

- 2010.4 The EAP shall consist of assessment, counseling, and referral services.
- 2010.5 Any employee (excluding temporary employees) shall be eligible to receive services through the EAP.
- 2010.6 Supervisors and managers should encourage an employee who is experiencing challenges that adversely affect his or her work performance or conduct on the job to voluntarily seek assistance through the EAP.
- 2010.7 If an employee refuses or fails to voluntarily seek assistance through EAP, managers and supervisors can require the employee to report to the EAP when the employee is experiencing challenges that adversely affect his or her work performance or conduct on the job.
- 2010.8 Participation in the EAP does not prevent management from taking appropriate corrective, adverse, or other administrative action in situations where such action is warranted.
- 2010.9 Involvement in the EAP shall be on the basis of self-referral or agency referral.
- 2010.10 Up to two (2) hours of administrative leave may be granted to an employee to attend his or her initial EAP appointment.
- 2010.11 The services of the EAP shall be provided through contracted health care service provider(s).
- 2010.12 The cost of the initial session with the EAP contractor, which includes assessment, counseling, and referral services shall be paid in full by the District government to the extent that the session is not covered by the employee's health insurance carrier.
- 2010.13 DCHR may enter into a written agreement with another personnel authority to provide EAP services administered by the DCHR Director to employees of the other personnel authority.
- 2010.14 Each subordinate agency and independent personnel authority that participates in the EAP administered by DCHR shall designate an EAP coordinator.
- 2010.15 DCHR may authorize the establishment of other employee assistance programs for the District of Columbia government, provided such programs are consistent with this section.
- 2010.16 Unless a separate program is established pursuant to the provisions of § 2010.15, agencies under the personnel authority of the Mayor must participate in the EAP administered by the DCHR Director.
- 2010.17 Records and information on referral to or participation in the EAP shall be maintained in confidence as provided in Chapter 31 and any other applicable federal and District of Columbia laws and regulations.
- 2011-2012 RESERVED**

2013 WELLNESS PROGRAM

- 2013.1 The District of Columbia government shall maintain a wellness program to improve and promote the health and fitness of its employees.
- 2013.2 The wellness program applies to all District agencies, including independent District agencies and the Council of the District of Columbia, but excluding boards and commissions, Advisory Neighborhood Commissions, and the Courts.
- 2013.3 Each agency shall designate one employee as the agency's wellness coordinator who will be responsible for implementing the wellness policy in the agency and facilitating wellness programs.
- 2013.4 DCHR, in collaboration with the Department of Health, will provide guidance and assistance to agencies in the development of a comprehensive wellness program. The components of the wellness program shall include:
- (a) A wellness leader at the management level who has direct access to the agency head. The individual will be responsible for creating a workplace wellness infrastructure for the agency.
 - (b) A wellness committee that includes employees who represent a cross section of the agency's population.
 - (c) A chair or co-chair(s) elected by the wellness committee to conduct its meetings and lead activities.
- 2013.5 The wellness program shall include initiatives that:
- (a) Establish measurable goals for improving the health of the District of Columbia government employees;
 - (b) Improve nutrition in the workplace, including:
 - (1) Opportunities for employees to store lunches and foods in District buildings;
 - (2) Promoting the availability and consumption of water throughout the day;
 - (c) Improve the physical fitness of employees and physical activity during the work day with the supervisor's approval, including:
 - (1) Providing opportunities for employees to exercise at their desks and offices; and
 - (2) Ensuring that staircases are accessible and their use is encouraged;

- (d) Promote healthy living and educating employees about physical activity, healthy eating, stress management, and disease prevention;
- (e) Provide for early detection and screening for key health indicators; and
- (f) Support changes in the work environment to encourage healthy behaviors and breastfeeding, and promote occupational safety and health.

2013.6 Upon request by DCHR, each agency must complete workplace wellness surveys and submit reports on the wellness activities provided to their employees.

2099 DEFINITIONS

When used in this chapter, the following meanings apply:

Essential job functions — the fundamental duties of a position; the things a person holding a position must be able to do, with or without reasonable accommodation, in order to fulfill the requirements of the position.

Medical condition — any physiologic, mental, or psychological condition, disorder, disease, illness, or injury. A biological or psychological state that is within the range of normal human variation is not a medical condition.

Medical evaluation — a critical appraisal or assessment of an individual’s mental or physical health; a judgement of an individual’s mental or physical health; or measurement of an individual’s progress with respect to a health care related treatment.

Medical record(s) — written health information, including but not limited to information that relates to an individual’s genetics, history of health care services, or past, present, or future physical or mental health, and any written medical evaluations completed pursuant to this chapter.

Personnel authority — an individual or entity authorized by D.C. Official Code § 1-604.06 to implement personnel rules and regulations for employees of an agency or group of agencies of the District of Columbia, or that individual or entity’s agent who is delegated that authority.

Physician — a person authorized by law to practice medicine or osteopathy.

Practitioner — a person authorized by law to provide preventative, curative, or rehabilitative health care and who provides such care in a professional capacity. The term “practitioner” does not include physicians.

Reasonable accommodation — a change in the workplace or the way things are customarily done that permits an employee to perform the full duties and

responsibilities of the given position (excludes removing essential functions of the position). A “reasonable accommodation” includes:

- (a) Changes to a job application process to permit an individual with a disability to be considered for a job;
- (b) Changes to enable a qualified individual with a disability to perform the essential functions of the job; and
- (c) Changes that enable employees with disabilities to enjoy equal benefits and privileges of employment.

Temporary appointment — an appointment with a specific time limitation of one (1) year or less.

D.C. Register Updates for Chapter 20B of the D.C. Personnel Regulations,
Health

The following *D.C. Register* citation(s) identify when a given section(s) of Chapter 20, Health, of Subtitle B of Title 6 of the District of Columbia Municipal Regulations, was amended. Following the publication in the *D.C. Register* of subsequent final rulemaking notices, this Addendum will be updated accordingly.

For the convenience of DPM subscribers, the Addendum identifies amendments on a section-by-section basis; identifies the page(s) in an E-DPM Transmittal impacted by the amendment(s); and provides brief comments on the amendment(s) accomplished.

<i>D.C. Register</i> Date	Section(s)	Change(s) Reflected on Page(s)	Comments
40 DCR 7649 (11/5/1993)	2050	Enter chapter Transmittal No. 38	The rules added a new section 2050 to the chapter, Employee Assistance Program.
51 DCR 10422 (11/12/04)	2049 through 2050, and 2099	Enter chapter Transmittal No. 122	The rules added a new section 2049 to the chapter, Pre-Employment and Other Physical Examinations and General Medical Qualifications Requirements; updated the provisions in section 2050 of the chapter, Employee Assistance Program; and added a definitions section to the chapter.
60 DCR 015260 (11/1/13)	2049, 2050, 2051, and 2099	Entire chapter Transmittal No. 213	The rules added a new section 2051 to the chapter, Wellness Program; amended subsection 2049.12; amended subsection 2049.13(c) to delete the phrase “ <i>and apply or assist in applying therefore</i> ”; and updated the definition section to the chapter.
66 DCR 005874 (05/10/19)	2000 through 2013, and 2099	Entire chapter Transmittal No. 238	The rules amended the entire chapter with changes that include a new general provisions section (2000); a new applicability section (2001) that indicates who is excluded from the chapter; a new ordering medical evaluations section (2005) that establishes when an applicant or employee may be subject to a medical evaluation; a new medical evaluation determinations section (2006) that outlines the actions that a personnel authority may take after a medical evaluation establishes that an employee is unable to perform all of his or her essential job functions; and a section that expands the regulations for the workplace wellness program (2013).