

Office of Personnel Management

§ 339.104

339.205 Medical evaluation programs.
339.206 Disqualification on the basis of medical history.

Subpart C—Medical Examinations

339.301 Authority to require an examination.
339.302 Authority to offer examinations.
339.303 Medical examination procedures.
339.304 Payment for examination.
339.305 Records and reports.
339.306 Processing medical eligibility determinations.

AUTHORITY: 5 U.S.C. 1104(a), 1302(a), 3301, 3302, 3304, 3312, 3318, 3320, 3504, 5112; 39 U.S.C. 1005, Executive Order 10577, Rule II, codified as amended in 5 CFR 2.1(a).

SOURCE: 82 FR 5350, Jan. 18, 2017, unless otherwise noted.

Subpart A—General

§ 339.101 Coverage.

This part applies to—

(a) Applicants for and employees in competitive service positions; and
(b) Applicants for and employees in positions excepted from the competitive service when medical issues arise in connection with an OPM regulation that governs a particular personnel action, such as removal of a preference eligible employee in the excepted service under part 752.

§ 339.102 Purpose and effect.

(a) This part defines the circumstances under which OPM permits medical documentation to be required and examinations and/or evaluations conducted to determine the nature of a medical condition that affects safe and efficient performance.

(b) Personnel decisions based wholly or in part on the review of medical documentation, as defined below, and the results of medical examinations and evaluations must be made in accordance with appropriate sections of this part.

(c) Failure to meet medical (which may include psychological) standards and/or physical requirements established under this part means that the applicant or employee is not qualified for the position, unless reasonable accommodation or a waiver is appropriate, in accordance with §§ 339.103 and 339.204. An employee's refusal to be ex-

amined or provide medical documentation, as defined below, in accordance with a proper agency order authorized under this part, constitutes a basis for appropriate disciplinary or adverse action. After a tentative job offer of employment conditioned on completion of a medical examination, an applicant's refusal to be examined or provide medical documentation, as defined below, may result in the applicant's removal from further consideration for the position.

§ 339.103 Compliance with disability laws.

(a) The Americans with Disabilities Act (ADA) of 1990, as amended by the Amendments Act of 2008 (collectively the ADA), establishes prohibitions against discrimination and the requirements for reasonable accommodation that apply to the Federal Government through the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791(f). Consequently, actions under this part must comply with the non-discrimination provisions of the Rehabilitation Act, the non-discrimination provisions of the ADA, and their implementing regulations.

(b) Use of the term "qualified" in this part must comply with the Rehabilitation Act, as amended, and the ADA, as amended. Specifically, a "qualified individual with a disability" means that the individual possess the requisite skill, experience, education, and other job-related requirements of an employment position that the individual holds or seeks, and can perform the essential functions of the position with or without reasonable accommodation.

§ 339.104 Definitions.

For purposes of this part—

Accommodation means *reasonable accommodation* as described in the ADA.

Arduous or hazardous positions means positions that are dangerous or physically demanding to such a degree that an employee's medical and/or physical condition is necessarily an important consideration in determining ability to perform safely and efficiently.