



## **GENERAL ORDER**

### **Fitness for Duty**

#### **Purpose and Scope**

This order provides guidelines pertaining to an employee's mental or physical fitness for duty. All employees should be physically and mentally capable of effectively performing their duties and not pose a risk of harm to the health or safety to themselves or others.

#### **Affected Personnel**

All employees

#### **Effective Date**

February 13, 2017

#### **I. Employee Responsibilities**

- A. Employees shall perform their respective duties without physical, emotional, and/or mental constraints, with or without accommodation
- B. During working hours, all employees are required to be alert, attentive, and capable of performing their assigned responsibilities.
- C. Any employee who feels unable to perform their duties due to physical or mental impairment should notify a supervisor or manager. An employee, who observes another employee with a perceived mental or physical condition that may make the other employee unable to safely perform their job, or who may be a threat to themselves or others, is encouraged to report such observations to a supervisor or manager.

#### **II. Supervisor Responsibilities**

A supervisor observing an employee, or receiving a report of an employee, the supervisor perceives to be unable to safely perform their duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.

- A. In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide assistance, including calling 9-1-1 (or 9-9-1-1 within the County phone system) for emergency services if needed.
- B. The supervisor shall inform the employee's Assistant Division Chief or Division Chief regarding fit for duty concerns of an employee.

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- C. An employee is not required to disclose any disabilities (e.g., medical or mental health) to a supervisor.
- D. A supervisor should refer the employee to the Department of Personnel Services for all available resources appropriate to the employee's situation such as the County Employee Assistance Program (EAP), Workers' Compensation, Americans with Disabilities Act (ADA), and Family and Medical Leave Act (FMLA).

### **III. Temporary Relief from Duty**

- A. An employee may be temporarily relieved from duty by the employee's own health care provider and be placed off work using available appropriate leave balances.
- B. An employee with a work related injury or illness may be placed off work under the Workers' Compensation program. Employees shall comply with all Workers' Compensation rules and guidelines.
- C. An employee may be placed on modified duty by the employee's own doctor, Workers' Compensation, or through the Americans with Disabilities Act. Refer to the Modified Duty policy for information.
- D. An employee may be placed on Paid Administrative Leave by the Chief Probation Officer or designee pending a fitness for duty examination.

### **IV. Physical and Psychological Examinations**

- A. Whenever circumstances reasonably indicate an employee is unable to perform his or her duties due to a perceived physical or mental impairment, the Chief Probation Officer or designee may serve the employee with a written order to undergo a physical and/or psychological examination in cooperation with the Department of Personnel Services to determine the level of the employee's fitness for duty.
  - 1. The written order shall indicate the date, time, and place for the examination and with whom. Examinations shall be done at County expense.
  - 2. The examining physician or therapist shall be selected by the County and meet or exceed the minimum education and experience requirements as detailed under Government Code 1031(f).
  - 3. The examining physician or therapist will provide the Department with a report indicating if the employee is or is not fit for duty.
    - a. If the employee is deemed unfit for duty, the examiner shall list any functional limitations that limit the employee's ability to perform job duties.

- b. The examiner shall prescribe any course of therapy or treatment the examiner believes is likely to render the employee fit for duty.
  - c. If placed on involuntary leave during the treatment period, the employee shall continue to be paid by the County while completing the course of treatment or therapy until the employee is given an appropriate hearing to determine whether or not County pay shall continue.
- B. In order to facilitate the examination of any employee, the Department will provide all appropriate documents, observations, and available information to assist in the evaluations and/or treatment. The Department will provide the employee with a copy of all materials provided to the evaluator. The employee will be given an opportunity to respond to any materials that are placed in any file used for personnel purposes.
- C. All reports and evaluations submitted to the Department by the treating physician or therapist shall be part of the employee's confidential medical file.
  - 1. Any information disclosed or obtained under this order shall be treated as a confidential personnel record.
  - 2. Information may be shared with any supervisor or manager who has a need to know, with safety and emergency personnel if emergency treatment of an employee may be required, and the Department of Personnel Services.
  - 3. In extraordinary circumstance, such as a communicable disease or an imminent threat, the County may also need to disclose information to others who may be affected.
- D. Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order, to the extent required by law.
  - 1. The employee shall cooperate to the extent required by law with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed.
  - 2. Any failure to cooperate with the examining physician or therapist to the extent required by law may be deemed insubordination and may subject the employee to discipline up to and including termination.

## **V. Results of Examination**

- A. Depending upon the results of the examination and the recommendation of the evaluator, the Department may:
  - 1. Return the employee to full duty;
  - 2. Place the employee on temporary modified duty pending a re-examination;
  - 3. Remove the employee from any duties pending treatment and re-evaluation;
  - 4. Conditionally allow full or modified duty on the employee's receipt of treatment;

5. If an employee is deemed fit for duty, institute or resume action on disciplinary grounds, if appropriate, per the applicable labor agreement.
  6. Offer an alternative position for which the employee is qualified, if appropriate;
  7. Institute proceedings to initiate a disability retirement application on behalf of the employee if necessary, or if appropriate, medically terminate the employee; or
  8. Take other action as deemed appropriate and allowed by rule, regulation, labor agreement, law, or as mutually agreed upon between the employee and the Department.
- B. Where possible, it is always the Department's intent to rehabilitate an employee and achieve a return to full duty status.
- C. If the employee places their condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding
- D. The Probation Department in coordination with the Department of Personnel Services will initiate the Americans with Disabilities Act (ADA)/Fair Employment and Housing Act (FEHA) interactive meeting process if necessary and as required by law.
- E. Nothing in this order shall limit the right of the employee to apply for or be protected by any appropriate law, rule, regulation, or agreement such as ADA/FEHA, FMLA, Workers' Compensation, or disability retirement.
- F. Nothing in this order shall limit appeal rights enumerated in the applicable labor agreement, personnel ordinance, or Sacramento County Employee Retirement System.

**References**

Civil Code  
Government Code

**Amends/Replaces**

NEW

**Authorized By** \_\_\_\_\_



*Lee Seale, Chief Probation Officer*

**Date** \_\_\_\_\_

1/5/17