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Workplace Drug & Alcohol Policy

Purpose:

To provide EPS members direction with respect to the use of any drug(s) of concern.

Statement of Principle:

The EPS is committed to doing everything reasonably practicable to ensure the health and safety of all members as well as that of the general public, while also respecting the rights of individual members. For many EPS members, the nature of work required represents an inherently dangerous and safety-sensitive workplace.

The use of drugs of concern by any EPS member can adversely affect job performance, the work environment, and the safety of themselves and others. Many EPS members (including all sworn members unless otherwise specified) are employed in safety sensitive positions or must be able to otherwise perform safety sensitive tasks (also considered a safety sensitive position). As such, it is critically important for these members to be and remain fit for duty while attending and performing their work.

Definitions:

Definitions listed in this section apply to this document only with no implied or intended organization-wide or EPS Policy and Procedure Manual wide use.

Alcohol – The intoxicating agent in beverage alcohol, methyl alcohol, or other low molecular weight alcohol, including methyl and isopropyl alcohol.

Cannabis – Any substance or mixture of substances that contains any part of a cannabis plant, including the phytocannabinoids produced by or found in a cannabis plant, such as tetrahydrocannabinol (“**THC**”), cannabidiol (“**CBD**”), and any substance or mixture of substances that is identical to any such phytocannabinoid regardless of how the substance was obtained (e.g., cannabis, synthetic cannabinoids).

Drug(s) of Concern – Illicit drug(s), alcohol, cannabis, medication(s), solvents, inhalants, or any other substance that may change or adversely affect the way a person thinks, feels, acts, or otherwise has the potential to impair an individual's ability to perform their work safely and productively.



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Disability Related to any Drug(s) of Concern – An addiction or dependency in relation to a drug of concern which has been diagnosed as such by a substance abuse expert and which is a protected disability.

Drug Test(ing) – Testing for drug(s) of concern which is administered in accordance with this policy.

EPS Representative – Any managerial EPS employee engaged in carrying out this policy in the circumstances and includes any EPS Occupational Health Nurse.

Fit For Duty – Being able to safely and productively perform work without limitations resulting from the use of, or potential impairment from, any drug(s) of concern. Without limitation, a member is not fit for duty when they have a blood alcohol concentration level or drug level that is equal to or in excess to the amounts set out in **HR - Appendix M - Applicable Limits**, or unless otherwise authorized in accordance with this policy, they are employed in a safety sensitive position and have ingested, inhaled, or otherwise consumed cannabis within a 24-hour period prior to performing work.

Illicit Drug(s) – Any drug or substance that is not legally obtainable, and its use, sale, possession, purchase, or transfer is restricted or prohibited by law (e.g., street drugs such as cocaine).

Incident – An unplanned event that may cause or actually causes personal harm to a member or other person, damage to property, or loss to EPS process or operations.

Medication – A medicinal drug obtained legally by a member, either over the counter or through a licenced physician's prescription or authorization. Cannabis is not considered to be a medication unless its use has been authorized for the member by a licenced physician as prescribed and accepted as such by EPS Disability Management Unit.

Member – Any employee, sworn or civilian, of the Edmonton Police Service (i.e., City of Edmonton employees who work for the Edmonton Police Service).

Near Miss – An unplanned event that did not result in an incident, but that reasonably could have been expected to under similar circumstances.

Negative Test – A drug test where the member's blood alcohol concentration level or drug level is less than the applicable amount(s) set out in **HR - Appendix M - Applicable Limits**, except for when a member is participating in treatment, rehabilitation, a Return to Work Plan, and/or a Return to Work Agreement that requires a lower applicable threshold level (e.g., "zero" where total abstinence is required).

Permitted by Work Function – Possession of drug(s) of concern by members working in an authorized covert capacity (meaning approved undercover and surveillance



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operations) or in accordance with rules and directions as approved by the applicable chain of command.

Positive Test – A drug test where the member’s blood alcohol concentration level or drug level is equal to or in excess to the amounts set out in **HR - Appendix M - Applicable Limits**, except for when a member is participating in treatment, rehabilitation, a Return to Work Plan, and/or a Return to Work Agreement that requires a lower applicable threshold level (e.g., “zero” where total abstinence is required). Any refusal or failure to participate in drug testing by a member will be deemed to represent a positive test.

Priority Investigation – As defined in Section C.1.a. of this policy.

Protected Disability – A physical disability or mental disability as defined and interpreted in accordance with the *Alberta Human Rights Act*.

Reasonable Grounds – Appropriate grounds for further investigation and potential drug testing of a member in a safety sensitive position, including, but not limited to, information established by the direct observation of the member’s conduct or other indicators such as the physical appearance of the member, a smell associated with the use of any drug(s) of concern on the member’s person or in the vicinity of the member’s person, and the presence of any drug(s) of concern or drug paraphernalia in the vicinity of the member or the area where the member performed work; or in circumstances relating to an incident or a near miss.

Return to Work Agreement – As defined in Section D.4.c.iii. of this policy.

Return to Work Assessment – As defined in Section D.4.c.i. of this policy.

Return to Work Plan – As defined in Section D.4.c.iii. of this policy.

Safety Sensitive Position – Any position that requires the member to engage in a process, function, or duty that has the potential for significant harm to the member, their co-workers, other contractors, and/or the general public, including the operation of a vehicle and/or equipment. For further clarity, the applicable Occupational Health and Safety (“OHS”) Hazard Assessment will indicate whether a position is considered by EPS to be safety sensitive. All sworn members are considered to be employed in a safety sensitive position unless otherwise expressly specified.

Substance Abuse Expert (“SAE”) – An individual with knowledge of, and clinical experience in, the diagnosis and treatment of disorders related to any applicable drug(s) of concern. The substance abuse expert is retained by the EPS (and does not treat the member), but may assess and diagnose a member, and may make recommendations regarding treatment, supports, accommodation, return to work, or drug testing, and may provide any other related information or assessments requested by the EPS.



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Supervisor – A member who is accountable for a particular facility, department, division, branch, team, or area, including managers and others in supervisory positions directly responsible for the performance of members.

Work – Any and all activities carried out by a member in direct or indirect relation to the performance of their duties for the EPS (including, specifically for sworn members, duties pursuant to the *Police Act* and all associated Regulations) whether on or off EPS premises, including but not limited to a member's general attendance for work.

Policy Statement:

A. Standards and Responsibilities:

1. All members have a shared responsibility for ensuring the safety of themselves, their fellow members, and the public while performing work and must remain in strict compliance with all applicable rules, policies, and procedures. In addition, every member is required to comply with the following obligations:
 - a. Report and remain fit for duty at all times while performing their work.
 - b. Prior to performing work while using any medication(s), confirm with their licenced physician and/or pharmacist whether any medication(s) which the member intends to use has the potential to impact the member's ability to be fit for duty and, if so:
 - i. immediately advise an EPS Occupational Health Nurse (or their designate) so that the appropriate next steps can be determined, and
 - ii. refrain from performing work until such appropriate next steps are determined.
 - c. Use medication(s) only as prescribed and/or directed by the prescribing and/or directing licenced physician or pharmacist.
 - d. If uncertain whether the use of any drug(s) of concern is impacting, or may impact, the member's ability to be fit for duty, immediately advise their supervisor or an EPS Occupational Health Nurse (or their designate) so that the appropriate next steps can be determined.
 - e. If the use of any drug(s) of concern that is impacting, or may impact, the member's ability to be fit for duty is, or may be related to a protected disability, immediately advise their supervisor or an EPS Occupational Health Nurse (or their designate) or Disability Management Unit so that appropriate next steps can be determined.



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- f. Immediately advise a supervisor or EPS representative if they suspect that any member is not fit for duty.
 - g. Refrain from using, distributing, offering, selling, or possessing any drug(s) of concern at work, except when permitted by work function.
 - h. Abide by all applicable laws and legislation pertaining to drug(s) of concern, including possession and/or use of illicit drug(s), which includes but is not limited to the *Criminal Code*, the *Traffic Safety Act*, the *Police Act*, the *Police Service Regulation*, and any other applicable legislation.
 - i. Immediately advise a supervisor or EPS representative of the occurrence of any incident or near miss.
 - j. Refrain from handling (without authorization) or otherwise tampering with a sample for a drug test in relation to this policy.
 - k. Promptly report to a supervisor or EPS representative any criminal charges or vehicle license suspension or disqualification related to any drug(s) of concern.
 - l. Comply with any direction made by a supervisor or EPS representative in accordance with this policy, including but not limited to any direction to:
 - i. cooperate with any investigation carried out in accordance with this policy,
 - ii. submit to drug testing in accordance with this policy, and
 - iii. participate in any applicable assessment, treatment, support initiative, accommodation process, or return to work planning in accordance with this policy.
2. A member is not considered fit for duty in circumstances which include:
 - a. having a blood alcohol concentration level or drug level that is equal to or in excess to the amounts set out in **HR - Appendix M - Applicable Limits**, or
 - b. being employed in a safety sensitive position and having ingested, inhaled, or otherwise consumed cannabis within a 24-hour period prior to performing work unless otherwise authorized in accordance with this policy.
3. In addition to the responsibilities of all members outlined above, every supervisor (or EPS representative, as the case may be) is required to comply with the following obligations:



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- a. Actively monitor members' work performance and behaviour and address any observable changes.
- b. If there are reasonable grounds to investigate in accordance with this policy, make reasonable attempts to immediately address the member in a safe and private location and give the member the opportunity to provide an explanation for the concern(s) giving rise to the reasonable grounds.
- c. In circumstances involving an incident or near miss, promptly investigate the cause of the incident or near miss with other EPS representative(s) as may be appropriate and document all relevant findings (which findings should be shared with the EPS OHS Section as soon as practicable).
- d. If the concern(s) giving rise to the reasonable grounds are not sufficiently resolved, immediately notify an EPS Occupational Health Nurse (or their designate) for further direction and as may be warranted by the circumstances in accordance with this policy:
 - i. arrange for and direct the member to participate in drug testing in accordance with this policy,
 - ii. engage the appropriate area(s) and/or individual(s) in accordance with this policy,
 - iii. ensure that the member refrains from performing work until next steps are determined,
 - iv. take such reasonable steps and measures as may be required in the circumstances to ensure the safety of members and the general public,
 - v. document any steps taken and decisions made in relation to drug testing of a member, and
 - vi. if the decision is made to direct a member to participate in drug testing, ensure that an EPS Occupational Health Nurse is notified so that they can be properly informed of the drug test results.

B. Voluntary Disclosure:

1. The EPS recognizes that a member who has challenges relating to the usage of any drug(s) of concern may have a protected disability. If a member is reasonably suspected to have such a disability, prior to making any disciplinary decision, an EPS representative shall make further inquiries and take further action if warranted pursuant to this policy.



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2. Members are expected to appropriately disclose to an EPS representative, and seek assistance for a suspected disability related to any drug(s) of concern before the occurrence of:
 - a. any breach of this policy by the member, or
 - b. any involvement by the member in an incident or near miss.
3. The EPS recognizes that a disability related to any drug(s) of concern is a treatable illness. Voluntary disclosure by a member who suspects that they have any such disability is encouraged and the EPS will assist in seeking advice, assessment, and treatment. Accordingly, any member who discloses to an EPS representative a suspected disability related to any drug(s) of concern shall not be disciplined for doing so. However, any member who makes such disclosure or request for assistance subsequent to any breach of this policy by the member or any involvement by the member in an incident or near miss may remain subject to discipline if warranted in the circumstances.

C. Investigation:

1. Concurrent Investigations:
 - a. Where there is a criminal and/or administrative investigation (“**Priority Investigation**”) which has commenced in relation to the same subject matter as that giving rise to an investigation under this policy (e.g., impaired driving), that investigation shall take precedence over the policy investigation, including any associated drug testing which may be carried out in the course of the Priority Investigation (e.g., breathalyzer test).
 - b. Notwithstanding the precedence of a Priority Investigation, the existence of a Priority Investigation does not exempt or negate the application of this policy, including any associated investigation.
2. Reasonable Grounds:

An EPS representative will investigate any situation where there is reason to believe that a member is not in compliance with this policy, including, but not limited to:

- a. when there are reasonable grounds to believe that a member is not fit for duty when required to be,
- b. when there are reasonable grounds to believe that a member’s use of any drug(s) of concern may have caused or contributed to an incident or a near miss, or



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- c. when there are reasonable grounds to believe a member is using, distributing, offering, selling, or in possession of any drug(s) of concern at work without being permitted by work function.
3. **Investigative Process:**
 - a. Where a supervisor or EPS representative determines there are reasonable grounds to investigate in accordance with this policy, reasonable attempts by a supervisor or EPS representative will be made to first address the member in a safe and private location and provide the member with an opportunity to provide an explanation.
 - b. In circumstances involving an incident or a near miss, a supervisor and/or EPS representative(s) shall promptly investigate the cause of the incident or near miss and document all relevant findings.
 - c. If the concern(s) giving rise to the reasonable grounds are not sufficiently resolved, an EPS Occupational Health Nurse (or their designate) shall immediately be contacted for further direction when possible and, as may be warranted by the circumstances:
 - i. The member will be required to participate in the drug testing process in accordance with this policy as soon as is practicable.

Note: Any refusal or failure to participate in drug testing by a member will be deemed to represent a positive test.
 - ii. If there has been an incident or near miss, the Occupational Health and Safety Section shall be advised in order to determine whether further investigation or action is required.
 - iii. Disability Management Unit will be engaged where appropriate.
 - iv. Additional supports will be provided to the member where appropriate (see **HR - Appendix N - Support Contacts**).
4. Nothing in this section precludes the EPS from taking any other action warranted in the circumstances where there is reason to believe a member is not in compliance with this policy.

D. Drug Testing:

1. In accordance with this policy, a member will be required to participate in drug testing if:



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- a. There are reasonable grounds to believe that a member is not fit for duty when required to be and the concern(s) giving rise to the reasonable grounds are not sufficiently resolved following any initial discussion with the member.
- b. There are reasonable grounds to believe that a member's use of any drug(s) of concern caused or contributed to an incident or near miss and the concern(s) giving rise to the reasonable grounds are not sufficiently resolved following any initial discussion with the member and further related investigation into the cause of the incident or near miss.
- c. A member with a disability related to any drug(s) of concern is participating in treatment, rehabilitation, a Return to Work Plan, and/or a Return to Work Agreement for which drug testing is a term or condition.

2. When drug testing of a member is conducted pursuant to this policy, the supervisor and/or EPS representative shall follow the testing protocols and standards as further detailed in **HR - Appendix O - Drug Testing Protocol**. For clarity, all drug testing shall be conducted by a third-party provider on the basis of oral fluid, urine, and/or breath testing, in accordance with applicable practices, and the supervisor and/or EPS representative shall ensure that an EPS Occupational Health Nurse is notified so that they can be properly informed of the drug test results.
3. While a member is awaiting the results of drug testing under this section, the member shall refrain from performing further work and shall be placed on an administrative leave with pay.
 - a. In the event of a negative test result, the member shall be advised of the result and shall return to work, subject to any further investigation or any other steps that may be warranted in the circumstances.
 - b. In the event of a positive test result, the member shall be advised of the result and of the next steps to be taken in accordance with this policy, the *Police Act* (if applicable), any applicable collective agreement, or otherwise, including but not limited to any disciplinary consequences.
 - c. When drug testing of a member is conducted pursuant to this policy, the testing protocols which are applicable to the individual member's treatment, rehabilitation, Return to Work Plan, or Return to Work Agreement shall be followed.
4. Accommodation:
 - a. General Principles:



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- i. The EPS recognizes that it has a duty to accommodate any member who has a protected disability. The EPS also recognizes that the accommodation process requires an individualized approach. While this policy is intended to outline the general process for assessing whether a member has a protected disability requiring accommodation and for implementing any such accommodation, every member's situation will be addressed individually as that member's individual circumstances require.
- ii. Disability Management Unit is responsible for managing any accommodation process, with assistance from Human Resources Division and the member's supervisor where necessary.

b. Initial Assessment:

- i. If a member discloses that they may have a suspected disability related to any drug(s) of concern, or they have a positive test result following a drug test related to reasonable grounds, they will be referred on to Disability Management Unit which shall arrange for the member to be assessed by a substance abuse expert ("SAE") as an initial assessment.
- ii. Subject to the provisions of any applicable collective agreement, if an EPS representative reasonably suspects that a member may have a disability related to any drug(s) of concern, the EPS representative may refer the member on to Disability Management Unit which may arrange for the member to be assessed by an SAE as an initial assessment.
- iii. If an initial assessment is arranged, the member shall:
 - 1) Attend for the initial assessment with the SAE and provide the SAE with consent to share the results of the initial assessment with Disability Management Unit.
 - 2) Engage with Disability Management Unit as necessary to facilitate any necessary medical leave or modified duties being arranged for the member in relation to the initial assessment.
 - 3) Engage with Disability Management Unit as necessary regarding any treatment, supports, rehabilitation and/or accommodation determined by Disability Management Unit to be required following the initial assessment and actively participate in same.



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- 4) Otherwise comply with any directions made by an EPS representative relating to conducting, or facilitating any outcome of, the initial assessment.
- iv. As part of the initial assessment, the SAE shall assess the member and shall provide a report as requested by Disability Management Unit, which may include the following information:
 - 1) Whether or not the member has a disability related to any drug(s) of concern and, if so, details regarding its nature and scope.
 - 2) If the member has a disability related to any drug(s) of concern:
 - a) recommendations regarding initial treatment, rehabilitation and/or supports,
 - b) recommendations regarding whether any medical leave may be warranted,
 - c) recommendations regarding whether any restriction(s) or modification(s) to the member's work is warranted,
 - d) recommendations regarding the steps the member should take prior to undergoing any Return to Work Assessment, and
 - e) any other information as determined to be relevant by the SAE.
- v. On receipt of the initial assessment report from the SAE, Disability Management Unit shall determine whether the member has a protected disability requiring an accommodation. If Disability Management Unit determines that the member has a protected disability requiring accommodation by the EPS, Disability Management Unit will assess and implement next steps as appropriate in the circumstances, which may include but are not limited to:
 - 1) working with the member and the member's healthcare providers to determine any appropriate treatment, rehabilitation, supports and/or accommodation for the member,
 - 2) engaging with the member to arrange and implement any such treatment, rehabilitation, supports, and/or accommodation,
 - 3) engaging the member's chain of command and Human Resources Division to assess the availability of modified work (if applicable), and/or



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- 4) request, receive, and review updates and/or reports from any applicable treatment, rehabilitation, or support providers such that the member's recovery progress can be assessed.
- vi. Depending the circumstances, a member may be placed on a paid medical leave during the period of initial assessment. The member may resume work in accordance with the terms of a completed Return to Work Assessment.
- c. Return to Work Assessment:
 - i. Once a member is prepared to return to work (including work with modified duties) following any applicable treatment or rehabilitation relating to a disability related to any drug(s) of concern, Disability Management Unit may arrange for the member to be assessed (or re-assessed) by a SAE (the "**Return to Work Assessment**").
 - ii. If an initial assessment is arranged, the member shall:
 - 1) attend for the Return to Work Assessment with the SAE and provide the SAE with consent to share the results of the Return to Work Assessment with Disability Management Unit,
 - 2) engage with Disability Management Unit as necessary to facilitate any required modified duties in relation to the results of the Return to Work Assessment,
 - 3) engage with Disability Management Unit as necessary regarding any treatment, supports, rehabilitation and/or accommodation determined by Disability Management Unit to be required as a result of the Return to Work Assessment and actively participate in same, and
 - 4) otherwise comply with any directions made by an EPS representative relating to conducting or facilitating any outcome of the Return to Work Assessment.
 - iii. As part of the Return to Work Assessment, the SAE shall assess the member and shall provide a report as requested by Disability Management Unit, which may include the following information:
 - 1) The member's updated diagnosis in relation to their disability related to any drug(s) of concern.



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- 2) Whether or not the member is able to safely return to work and remain fit for duty and, if so, whether or not any modifications or restrictions are recommended.
- 3) Whether or not any conditions for the member's return to work are recommended, including but not limited to:
 - a) drug testing,
 - b) ongoing treatment and/or rehabilitation or other identified support(s) and, if so, details of any such conditions, and
 - c) any other information as determined to be relevant by the SAE.
- 4) On receipt of the Return to Work Assessment report from the SAE, Disability Management Unit, with input from Human Resources Division and the member's chain of command, shall determine whether the member's return to work (with or without restrictions or modified duties) is appropriate and, if so, the appropriate conditions (if any) for the member's return to work (the "**Return to Work Plan**").
- 5) Any Return to Work Plan shall be provided by Disability Management Unit to the member and the member's union, if applicable, for consultation and feedback prior to the implementation of the Return to Work Plan.
- 6) Depending on the circumstances, if a member has violated the terms of the policy, the member may be required to enter into a return to work agreement governing the conditions of the member's continued employment with EPS ("**Return to Work Agreement**"), which may include but is not limited to any of the following:
 - a) position reassignment,
 - b) duty restrictions,
 - c) adherence to any recommended treatment, monitoring, or aftercare program,
 - d) abstinence from use of certain drugs of concern,
 - e) satisfactory performance upon their return to work,
 - f) successful completion of a drug test with a negative test result,



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- g) ongoing unannounced drug testing for a period to be determined on a case-by-case basis, and
- h) any other condition appropriate to the individual circumstances.

7) Any failure by a member to meet the requirements and conditions of a Return to Work Agreement may result in discipline up to and including termination of employment.

iv. Treatment Costs:

- 1) The EPS recognizes that successful treatment and/or rehabilitation in relation to a disability related to any drug(s) of concern may require more than one meaningful attempt, depending on the circumstances.
- 2) The costs of a member's applicable treatment and/or rehabilitation required for a disability related to any drug(s) of concern shall be shared between the EPS and the member as follows (subject to eligibility, collective agreement provisions, and any other relevant agreement(s)):
 - a) For the member's first rehabilitation effort, EPS will cover the costs of medical evaluation, treatment planning, and appropriate residential treatment.
 - b) For the member's second rehabilitation effort, EPS will cover the costs of medical evaluation and treatment planning, while costs associated with appropriate residential treatment will be shared equally between EPS and the member. The member will be required to provide the EPS with written approval allowing the member's portion of the costs to be deducted from their earnings on a mutually agreed schedule.
 - c) For the member's third or any subsequent rehabilitation effort, the member will be responsible for all associated costs. The EPS may, at its sole discretion, enter into an agreement with the member to cover all or part of these costs on a recoverable basis if the EPS is of the view that there is a reasonable prospect of repayment.
 - d) The EPS will be responsible for the costs of any required monitoring to ensure the member can safely return to work, which may include drug testing or other monitoring conditions in relation to a Return to Work Agreement and/or a Return to Work Plan.

E. Union Notification:



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1. Any member may request the assistance and/or attendance of a union representative (if applicable) in relation to any meeting or discussion to which the member is a party pursuant to the operation of this policy.
2. If a member makes a request pursuant to Article E. (1) of this policy, a supervisor and/or EPS representative will facilitate any such assistance and/or attendance of a union representative, provided that any such assistance and/or attendance will not meaningfully delay any process of this policy, including the drug testing process.

F. Compliance:

1. All members have an obligation to work safely. Accordingly, all members are expected to make responsible decisions regarding drugs of concern such that any off-duty or medicinal use is compatible with the safe and productive performance of their job duties. Accessing assistance or disclosing a current or emergent substance dependency (including a disability related to any drug(s) of concern), while encouraged, does not eliminate the requirement for compliance with this policy.
2. Any violation of this policy by a member may result in disciplinary action up to and including termination of employment.
3. In addition to disciplinary action, any member in violation of this policy (or reasonably suspected to be in violation of this policy) may be subject to restrictions to their work duties to mitigate any risk created by any such violation or reasonably suspected violation.