

EMS Administration
Certification Review Process**Date: Draft 07/01/2023**
Policy #1400**I. Purpose:**

To define the mechanism and procedures that will be used by the Imperial County EMS Agency to review and investigate actions/inactions that may be cause for disciplinary action against an individual's EMT or AEMT certificate, and the process through which such actions will be taken, when necessary.

II. Authority:

- A. California Health and Safety Code – Division 2.5: Emergency Medical Services [1979. – 1797.200.]
- B. California Code of Regulations, Title 22. Social Security, Division 9. Prehospital Emergency Medical Services
- C. EMSA Publication #134, Recommended Guidelines for Disciplinary Orders and Conditions of Probation for EMT (Basic) and Advanced EMT (4-1-2010)

III. Policy:

- A. The Imperial County EMS Agency Medical Director may take appropriate action according to these policies and procedures, against the certificate of any prehospital emergency care personnel certified, for which the following is true:
 - 1. The certificate was issued by the Imperial County EMS Agency Medical Director
 - 2. The certificate holder utilizes or has utilized the certificate or the skills authorized by the certificate within the County of Imperial
- B. Disciplinary actions taken by the Imperial County EMS Agency, or any other certifying entity, are valid statewide and will be honored by all other certifying agencies for a period of at least 12 months from the effective date of the certification action.
- C. An EMT/AEMT whose application was denied or whose certification was revoked is not eligible to (re)apply, and his/her application will not be honored by any certifying entity for a period of at least 12 months from the effective date of the certification action.
- D. Any actions related to paramedic certification, refer to policy #2401.***

IV. Introduction:

- A. Disciplinary actions against a certificate holder include denial, probation, suspension, and revocation of a certificate.

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- B. Disciplinary actions will be initiated against an applicant or EMT or AEMT certificate holder when it is determined that a disciplinary cause has occurred and a threat to public health and safety exists as defined by the California Health and Safety Code, Section 1798.200(c).
- C. For the purposes of denial, placement on probation, suspension, or revocation of a certificate, pursuant to Section 1798.200(c) of the Health and Safety Code, a crime or act will be considered substantially related to the qualifications, functions, or duties of a certificate holder if to a substantial degree it evidences unfitness of a certificate holder to perform the functions authorized by the certificate in that it poses a threat to the public health and safety.
- D. When determining the certification action to be imposed or reviewing a petition for reinstatement or reduction of penalty under Section 11522 of the Government Code, Imperial County EMS Agency will evaluate the evidence of rehabilitation and present eligibility for certification of the applicant. When the certification action warranted is denial, probation, suspension, or revocation, the following factors may be considered:
1. Nature and severity of the act(s), offense(s), or crime(s) under consideration
 2. Actual or potential harm to the public
 3. Actual or potential harm to the patient
 4. Prior disciplinary record
 5. Prior warning on record or prior remediation
 6. Number and/or variety of current violations
 7. Aggravating evidence
 8. Rehabilitation evidence
 9. In the case of a criminal conviction, compliance with terms of the sentence and/or court ordered probation
 10. Overall criminal record
 11. Time that has lapsed since the act(s) or offense(s) occurred
 12. If applicable, evidence of expungement proceedings pursuant to Penal Code 1203.4
 13. In determining appropriate certification disciplinary action, Imperial County EMS Agency may give credit for prior disciplinary action imposed by the respondent's employer

V. Preliminary Inquiry:

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- A. All information received from credible sources, including information obtained from an application, court and/or law enforcement documents, discovery through medical audit, or the routine follow-up of a public complaint, will be evaluated to determine if disciplinary action may be warranted.
- B. Evaluation of information:
 - 1. A relevant employer (as defined by Title 22, Section 100206) , who receives an allegation of misconduct as defined in Health and Safety Code Section 1798.200 will determine its validity and, if found to hold merit, will notify the Imperial County EMS Agency within three working days, identifying supporting documentation.
 - 2. If complaint is received by the Imperial County EMS Agency, the EMS Agency will determine its validity, and if found to hold merit, will notify the relevant employer and send supporting documentation within three working days.
 - 3. The relevant employer will have first right of refusal for full investigation of the allegation.
 - 4. If the relevant employer declines the investigation or the certificate holder is not an employee of a relevant employer, Imperial County EMS Agency staff will conduct the full investigation to validate allegations for disciplinary cause.
 - 5. The certificate holder will be notified of the investigation.
- C. Prior to the beginning of the investigation, or at any time during the investigation, Imperial County EMS Agency, after consultation with the relevant employer, or without consultation when no relevant employer exists, may temporarily suspend, prior to a hearing, a certificate holder upon a determination of the following:
 - 1. The EMT/AEMT has engaged in acts or omissions that constitutes grounds for revocation of the certificate; and
 - 2. Permitting the EMT/AEMT to continue to engage in certified activity without restriction poses an imminent threat to the public health and safety.

VI. Investigation:

- A. Investigations involving EMTs or AEMTs employed by a public safety agency as a firefighter will be conducted in accordance with Chapter 9.6, Division 4, Title 1 of the Government Code,

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Sections 3250 et.seq., also known as the Firefighter's Bill of Rights, when said investigations are for events or circumstances involving the performance of his/her official duties.

- B. The investigation and certification action will be in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code (the California Administrative Procedure Act).
- C. All certificate holders or applicants for certification will be permitted to present evidence during the investigation, and mitigating evidence during any hearing or supplemental process held.

VII. Determination of Action:

- A. If the investigation of a complaint or allegation concludes that a violation of Health and Safety Code Section 1798.200 has been committed, or documentation of a criminal conviction is determined to meet the conditions of Health and Safety Code Section 1798.200 and/or Title 22, Section 100214.3, and a threat to public health and safety exists, disciplinary action will be imposed on the applicant or certificate holder. Disciplinary action includes:
 - 1. Denial of a certificate
 - 2. Placing the certificate holder on probation
 - 3. Suspension of the certificate
 - 4. Revocation of the certificate
 - 5. If, after conducting the investigation, the relevant employer finds cause for disciplinary action, the relevant employer will create a Disciplinary Action Plan (DAP) and submit it to the Imperial County EMS Agency.
 - a. The Imperial County EMS Agency will review the results of the investigation and the DAP. If the EMS Agency determines that the conduct under investigation warrants disciplinary action, or the disciplinary action suggested is not in accordance with the Model Disciplinary Orders (MDOs), the EMS Agency can act to impose appropriate disciplinary action against the certificate holder.
- B. Upon determining the disciplinary or certification action to be taken, the Imperial County EMS Agency will complete and place in the certification file, or any other file used for any personnel purposes by the EMS Agency, a statement certifying the decision made and the date the decision was made. The decision must contain findings of fact and a determination of issues, together with the disciplinary plan and the date the disciplinary plan will take effect.

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1. A temporary suspension order will take effect upon the date the notice is mailed to the certificate holder.
 2. For all certification actions, the effective date will be thirty days from the date the notice is mailed to the applicant, or holder of, the certificate unless another time is specified or an appeal is made.
- C. The Imperial County EMS Agency will notify the California EMS Authority of the findings of the investigation and certification action taken, and will enter said information into the State's Central Registry.

VIII. Temporary Suspension Order:

- A. Imperial County EMS Agency may temporarily suspend a certificate prior to a hearing if:
1. The certificate holder was engaged in acts or omissions that constitute grounds for revocation, and
 2. Permitting the certificate holder to continue to engage in certified activity would pose an imminent threat to the public health and safety.
- B. Prior to, or concurrent with, initiation of a temporary suspension order, the Imperial County EMS Agency will notify and consult with the relevant employer (if one is present) of the certificate holder.
- C. A notice of temporary suspension pending hearing will be served by certified mail or by personal service to the certificate holder immediately, but not longer than three working days from making the decision to issue temporary suspension.
1. The notice will include the allegations that allowing the certificate holder to engage in certified activities would pose an imminent threat to the public health and safety.
- D. Within three working days of the initiation of the temporary suspension, the Imperial County EMS Agency and the relevant employer (if one is present) will jointly investigate the allegation in order for the EMS Agency to make a determination of the continuation of the temporary suspension.
1. All investigatory information, not otherwise protected by law, held by the EMS Agency and the relevant employer will be shared via facsimile transmission or overnight mail relative to the decision to temporarily suspend.

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- E. Within 15 calendar days of the initiation of the suspension, the Imperial County EMS Agency will file an Accusation pursuant to Chapter 5 (commencing with section 11500) of Part 1, Division 3, Title 2 of the Government Code.
1. If the certificate holder files a Notice of Defense in response to the Accusation, a hearing before an Administrative Law Judge (ALJ) will be held within 30 days of Imperial County EMS Agency's receipt of this Notice of Defense.
 2. The temporary suspension order will be deemed vacated if the Imperial County EMS Agency:
 - a. Fails to serve the Accusation within 15 days, or
 - b. Fails to make a final determination within 15 calendar days after receiving a proposed decision from the Administrative Law Judge.

IX. Probation:

- A. The Imperial County EMS Agency may place a certificate holder on probation any time an infraction or performance deficiency occurs that indicates a need to monitor the certificate holder's conduct in the EMS system, in order to protect the public health and safety.
1. The term of the probation and any conditions will be in accordance with the MDOs and its appendices.
 2. The period of probation will run only when the certificate holder is actively practicing as an EMT/AEMT within California, though certain conditions of probation may be continuous until a specified date prior to the conclusion of probation or until probationary time is concluded.
- B. An EMT/AEMT whose certification is placed on probation by The Imperial County EMS Agency must complete the probationary requirements through the Imperial County EMS Agency.
1. If the probation period runs past the expiration date of the certificate, the certificate holder is required to renew the certificate with the Imperial County EMS Agency prior to its expiration date.
- C. Certification will be fully restored upon successful completion of all terms and conditions of probation.
- D. The Imperial County EMS Agency may revoke or suspend certification if the certificate holder fails to successfully complete the terms of probation.

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Policy #1400**X. Suspension:**

- A. The Imperial County EMS Agency may suspend an individual's EMT / AEMT certificate for a specified period of time for disciplinary cause in order to protect the public health and safety.
- B. The term of the suspension and any conditions for reinstatement will be in accordance with the MDOs.
- C. When the term of suspension is completed, the certificate will be reinstated only if all conditions for reinstatement have been met. The suspension period will be continued until all conditions have been met.
- D. If the suspension period runs past the expiration date of the certificate, the certificate holder is required to renew the certificate with the Imperial County EMS Agency prior to its expiration date.

XI. Denial or Revocation:

- A. Imperial County EMS Agency is required by Title 22, Section 100214.3, of the California Code of Regulations to deny or revoke for disciplinary cause any EMT/AEMT certificate that has been investigated and verified as having met any one of the criteria below:
 - 1. Has committed any sexually related offense specified under Section 290 of the Penal Code.
 - 2. Has been convicted of murder, attempted murder, or murder for hire.
 - 3. Has been convicted of two or more felonies.
 - 4. Is on parole or probation for a felony.
 - 5. Has been convicted and released from incarceration for said offenses during the preceding 15 years for the crime of manslaughter or involuntary manslaughter.
 - 6. Has been convicted and released from incarceration for said offense during the preceding 10 years for any offense punishable as a felony.
 - 7. Has been convicted of two or more misdemeanors within the preceding five years for any offense relating to the use, sale, possession, or transportation of narcotics or addictive or dangerous drugs.
 - 8. Has been convicted of two or more misdemeanors within the preceding five years for any offense relating to force, threat, violence, or intimidation.
 - 9. Has been convicted within the preceding five years of any theft related misdemeanor.

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"Felony" or "offense punishable as a felony" refers to an offense for which the law prescribes imprisonment in the state prison as either an alternative or the sole penalty, regardless of the sentence the particular defendant received.

B. The Imperial County EMS Agency may deny or revoke an EMT/AEMT certificate if any of the following apply to its holder:

1. Has committed any act involving fraud or intentional dishonesty for personal gain within the preceding seven years.
2. Is required to register pursuant to Section 11590 of the Health and Safety Code.

C. Items a and b above:

1. Apply only to convictions where the applicant/certificate holder was prosecuted as an adult.
2. Do not apply to convictions that have been pardoned by the Governor.
3. Do not apply to the convictions of EMTs/AEMTs who obtained their certificates prior to July 1, 2010, unless they:
 - a. Committed any sexually relate offense specified under Penal Code Section 290
 - b. Failed to disclose prior convictions when completing the application for certification.
 - c. Are convicted of any misdemeanor after July 1, 2010.

XII. Appeal Process:

A. An applicant or certificate holder has the right to appeal a disciplinary decision by requesting a review hearing be scheduled before an Administrative Law Judge from the state Office of Administrative Hearings (OAH).

1. Barring unique circumstances, hearings are scheduled at the convenience of the OAH at their court site in downtown San Diego.
2. Based on the hearing testimony and evidence presented at the hearing, the ALJ will render an opinion on the disciplinary actions proposed by the Imperial County EMS Agency. This is an advisory opinion only.
3. The Imperial County EMS Agency Medical Director will review the ALJ's opinion and render the final decision in the matter.

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XIII. Notification of Final Decision:

- A. The Imperial County EMS Agency Medical Director will notify the applicant/certificate holder and his/her relevant employer(s) of the final decision on certification action within 10 working days after making that determination.
- B. The notification of final decision will be served by certified mail or personal service and will include the following information:
 - 1. The specific allegations or evidence which resulted in the certification action
 - 2. The certification action(s) to be taken, and the effective date(s) of the certification action(s), including the duration of the action(s)
 - 3. Which certificate(s) the certification action applies to in cases of holders of multiple certificates
 - 4. A statement that the certificate holder must report the certification action within 10 working days to any other local EMS agency and relevant employer in whose jurisdiction he/she uses the certificate.

APPROVED:

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