



Investigation and Enforcement Guide

EMS Reference 810

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Foreword

The Santa Clara County Emergency Medical Services Agency (Agency) has developed this guide to assist in the uniform investigation and enforcement of prehospital care personnel. This document was compiled utilizing the State of California Emergency Medical Services Authority (EMSA) Guidelines for Disciplinary Orders and Conditions of Probation, the Firefighters Procedural Bill of Rights Act, the Administrative Procedures Act and Santa Clara County Prehospital Care Policy.

It should be noted that the many of the incidents reported to and investigated by the Agency are not related to not clinical care but, to inappropriate personal behavior (on and off-duty). Provider agencies should work cooperatively to build sound relationships and foster seamless integration of prehospital care. Most incidents should be handled at the lowest possible level, including provider-to-provider communication and resolution. In all cases, the procedures contained in this document must be utilized.

It should be noted that even though a provider agency has conducted their own investigation and may have offered an education/training plan to an employee, the Agency is responsible for the investigation and enforcement related to those certified and accredited. It is beneficial for both the employer and accused to immediately notify the Agency in accordance with Santa Clara County Prehospital Care Policy. When appropriate, the Agency will work with the employer to facilitate resolution at the provider agency level. Not all cases will be offered education as a means of resolution.

Emergency Medical Technician

Investigative Process

The following investigative procedure will be utilized by the Agency for complaints related to Emergency Medical Technicians (EMTs) in the County of Santa Clara.

Agency Responsibility

All incidents should be reported to the Agency in writing. However, based on the severity or nature of an incident, the EMS Agency may be notified twenty-four (24) hours a day. Upon receipt of a System Variance Report (SVR), the Agency will conduct a review of the incident under the supervision of the EMS Medical Director and/or EMS Agency Director.

Complaints and System Variance Report

When a complaint or SVR is received in writing, the Agency will evaluate the preliminary information and determine if any action is warranted. The Agency will also determine which provider agency should handle the case. If the Agency deems no further action necessary or the complaint to be unfounded, the case will be closed.

Discovery and Preliminary Review

The Agency will begin to review the circumstances related to the complaint. In this phase, actions such as, but not limited to, collection of patient care records, CAD data, incident reports, audiotapes, etc. may occur. The employer may or may not be involved in the investigation at this point. Upon review of the circumstances, the Agency will either find the complaint to be unsubstantiated and close the case; find the complaint to be substantiated and proceed to a formal investigation that may end with an offer of a Performance Improvement Plan (PIP) and/or with certification denial/revocation.

If education is offered as a form of remediation, EMS Reference 813 (Performance Improvement Plan) must be utilized as a means of developing and tracking the PIP. The Agency may work in cooperation with the subject's employer or other appropriate system resources in the development and execution of the PIP. Failure to complete a PIP may result in immediate administrative action.

Formal Investigation

A formal investigation may consist of, but is not limited to, further collection and review of documents, evidence collection, interviews, etc. When the need for a formal investigation has been determined, the EMT and their employer (if applicable) will be notified in writing by mail.

The respondent shall be allowed representation of his/her choice through all processes of the investigation. Any such representation shall be at the respondent's expense.

Based on the results of the investigation, all evidence will be reviewed by the Agency and the case will either be closed, the subject offered education, or a formal accusation made. If a formal accusation is made, the subject will be notified in writing and will be informed of their rights in accordance with the applicable regulations.

Investigation Causes

The California Health & Safety Code, Section 1798.200 specifies the offenses for which the Agency may take disciplinary action against an EMT. When filing an accusation the Agency may also cite additional related statutes, codes, regulations, ordinances, policies and protocols.

1. Fraud in Procurement of any Certificate or License
2. Gross Negligence: An extreme departure from the standard of care which, under similar circumstances would have ordinarily been exercised by a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of his or her duties if confronted with a similar circumstance.
3. Repeated Negligent Acts: A repeated failure to use such care as a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of his or her duties would use if confronted with a similar circumstance.
4. Incompetence: The lack of possession of that degree of knowledge, skill, and ability ordinarily possessed and exercised by a certified EMT.
5. The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, and duties of prehospital personnel.
6. Conviction of any crime that is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or certified copy of the record shall be conclusive evidence of such conviction.
7. Violating or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this division or the regulations adopted by the authority pertaining to prehospital personnel.
8. Violating or attempting to violate any federal or state statute or regulation that regulates narcotics, dangerous drugs, or controlled substances.
9. Addiction to the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.

10. Functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification.
11. Demonstration of irrational behavior or occurrence of a physical disability to the extent that a reasonable and prudent person would have reasonable cause to believe that the ability to perform the duties normally expected may be impaired.
12. Unprofessional Conduct
 - (A) The mistreatment or physical abuse of any patient resulting from force in excess of what a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of his or her duties would use if confronted with a similar circumstance. Nothing in this section shall be deemed to prohibit an EMT from assisting a peace officer, or a peace officer who is acting in the dual capacity of peace officer and EMT, from using that force that is reasonably necessary to effect a lawful arrest or detention.
 - (B) The failure to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law in Sections 56 and 56.6, inclusive of the Civil Code.
 - (C) The commission of any sexually related offense specified under Section 290 of the Penal Code.

EMT Investigations & Administrative Hearing Process

Disciplinary proceedings for EMTs shall be conducted in accordance with Title 22, Chapter 6 of the California Code of Regulations. Additionally, disciplinary proceedings involving public agency firefighter EMTs shall be conducted in accordance with "The Firefighter Procedural Bill of Rights Act (California Government Code 3250-3262).

If a case does not settle and the respondent has filed a notice of defense, an administrative hearing is conducted pursuant to the Administrative Procedure Act (Government Code Sections 11500 et seq.). The medical director has the option of participating in a hearing on the merits, or of delegating the responsibility to an administrative law judge.

If the medical director delegates the hearing to an administrative law judge, then the administrative law judge issues a proposed decision within 30 days which is provided to the Agency. Thirty days after the receipt by the Agency of the proposed decision, a copy of the proposed decision shall be filed with the Agency as a public record and a copy shall be served by the Agency on each party and his or her attorney. The medical director can (1) adopt the decision in its entirety; (2) reduce or otherwise mitigate the proposed discipline and adopt the balance of the proposed decision; (3) make technical

or other minor changes and adopt the decision; (4) reject the proposed decision and refer the matter back to the administrative law judge to take additional evidence; or (5) reject the proposed decision and decide the case upon the record.

The medical director has 100 days from receipt of the proposed decision to make a final decision. If the medical director fails to make a decision within the 100 days, the proposed decision shall be deemed adopted by the Agency. The final decision by the director becomes a public record immediately and is served on the respondent and his or her attorney. Generally, the final decision becomes effective 30 days after the final decision is delivered or mailed to the respondent.

Default Decision

Occasionally, after issuing an Accusation, a notice of defense requesting a hearing is not returned by the respondent to the Agency. According to the Administrative Procedure Act, the medical director can then issue a decision and order that is binding on the respondent.

Certification Denial

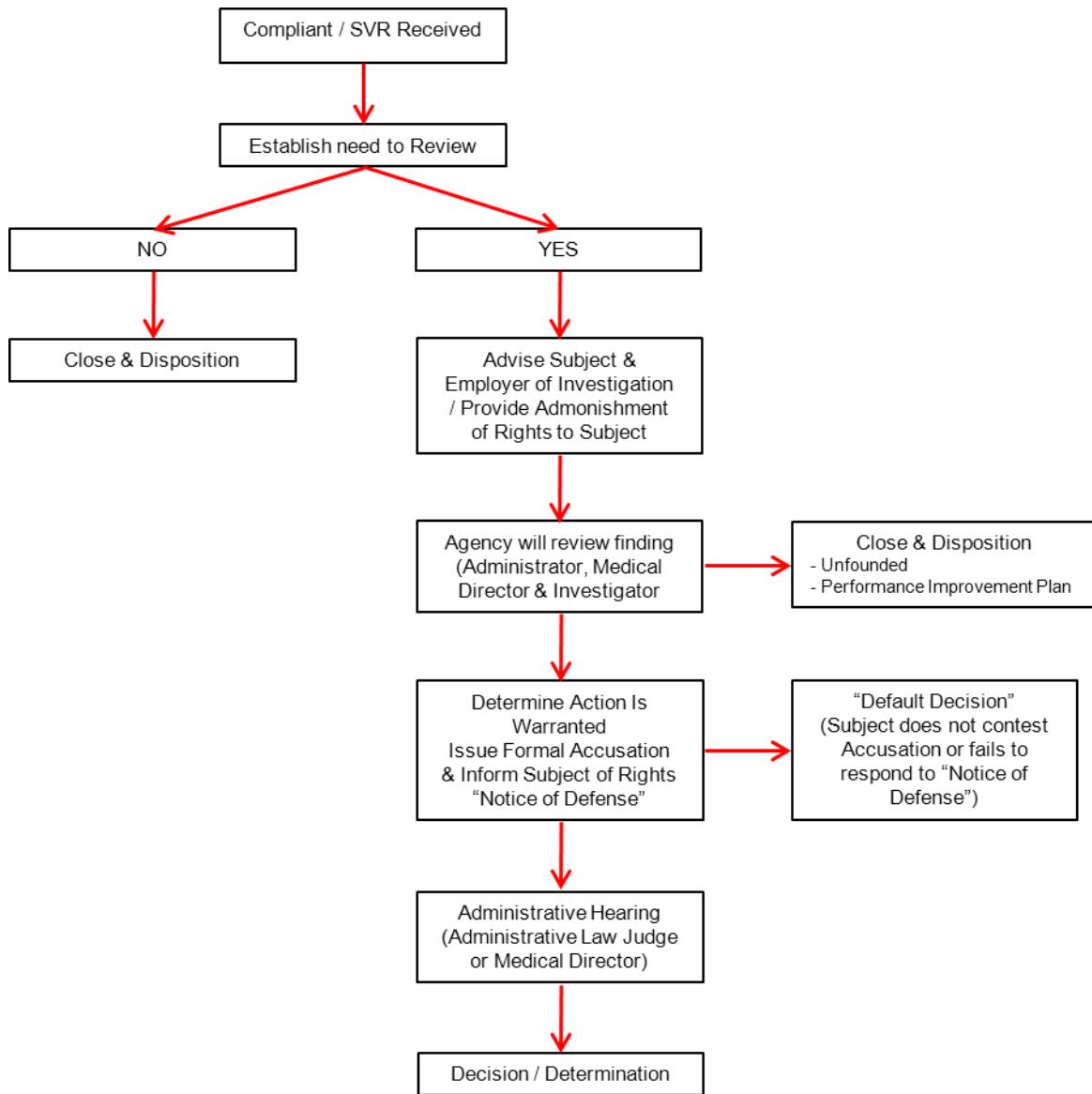
When the Agency denies an initial application for a EMT certification, the applicant can appeal the decision through the Administrative Procedure Act by submitting a written request to the Agency. A Statement of Issues is prepared and served on the respondent. The Statement of Issues is treated procedurally the same as an Accusation. However, the respondent has the burden of proof to demonstrate that he or she has been rehabilitated.

Respondent's Rights

The respondent is entitled to representation of his/her choice throughout the investigation and any subsequent prosecution. Any such representation is at the respondent's own expense.

The respondent may request "discovery" prior to the hearing and within 30 days after service by the EMS Authority of the Accusation, pursuant to Government Code Section 11507.6. The respondent is encouraged to familiarize himself/herself with the administrative process and ask questions of the as to his or her procedural rights.

EMT Investigation Diagram



Model Disciplinary Orders (MDOs)

Section I: FOREWORD

The purpose of the Recommended Guidelines for these Model Disciplinary Orders is to provide a consistent and equitable certification action in cases dealing with disciplinary cause as defined in Health and Safety Code, Division 2.5, Section 1798.200 (e).

The relevant employer shall use this document to develop a disciplinary plan in accordance with the Process for EMT-I and Advanced EMT Disciplinary Action, Chapter 6, Division 9, Title 22 of the California Code of Regulations. The local emergency medical services agency (LEMSA) medical director shall also use this document as a standard in settling disciplinary matters when a respondent wishes to resolve the allegations through a negotiated settlement. However, the settlement may be on any terms the parties determine are appropriate pursuant to Section 11415.60 of the California Administrative Procedure Act.

Should the respondent invoke his/her right to contest the allegations through the California Administrative Procedures Act, the administrative law judge shall use this document as a guide in making his/her recommendations for certification action (if needed) to the medical director of the local EMS agency.

The respondent shall be allowed representation of his/her choice through all processes of the investigation, filing of an accusation, negotiation of a settlement, and administrative hearing pursuant to the California Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1). Any such representation shall be at the respondent's expense.

Section II: DISCIPLINARY CONSIDERATION FACTORS

The following factors shall be considered for determination of the certification action to be imposed on the respondent. Specifically, whether the certification action warranted is probation, suspension, or revocation:

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 any patient;
4. Prior disciplinary record;
5. Prior warnings on record or prior remediation;
6. Number and/or variety of current violations;
7. Aggravating evidence;
8. Mitigating evidence;
9. Rehabilitation evidence;
10. In case of a criminal conviction, compliance with terms of the sentence and/or court-ordered probation;

11. Overall criminal record;
12. Time that has elapsed since the act(s) or offense(s) occurred;
13. If applicable, evidence of expungement proceedings pursuant to Penal Code 1203.4.
14. In determining appropriate certification disciplinary action, the LEMSA medical director may give credit for prior disciplinary action imposed by the respondent's employer.

Section III: VIOLATIONS and RECOMMENDED DISCIPLINARY ACTIONS

Health and Safety Code Section 1798.200 (c) specifies the offenses for which the LEMSA may take disciplinary action against an EMT-I or an Advanced EMT (AEMT). When filing an accusation, the LEMSA may also cite additional related statutes and regulations.

The recommended discipline should be imposed in the absence of any aggravating or mitigating evidence. The administrative law judge may propose any discipline between the minimum discipline and maximum discipline for a particular violation. When the administrative law judge recommends discipline that is less than the minimum or which exceeds the maximum, a full explanation shall be included as to the nature of the act that warrants unusual consideration. The LEMSA medical director has the final determination as to the discipline to be imposed.

When used below, the numbers following the "Minimum Conditions of Probation" refer to the Optional Conditions of Probation in Section VI. These conditions may vary according to the nature and circumstances of the offense.

1. **Fraud in the procurement of any certificate or license under this division.**
 - Maximum Certification Action: Revocation or denial.
 - Recommended Certification Action: Revocation or denial.
 - Minimum Certification Action: Revocation stayed, sixty (60) day suspension/denial.
2. **Gross negligence** - An extreme departure from the standard of care which, under similar circumstances would have ordinarily been exercised by a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of his or her duties if confronted with a similar circumstance.
 - Maximum Certification Action : Revocation
 - Recommended Certification Action: Revocation stayed, sixty (60) day suspension, three (3) years probation with terms and conditions.
 - Minimum Certification Action: Revocation stayed, three (3) years probation with terms and conditions.
 - Minimum Conditions of Probation: All Standard Conditions and Optional Conditions: 5, 8, 9 and 11.

3. **Repeated negligent acts** - A repeated failure to use such care as a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of his or her duties would use if confronted with a similar circumstance.
 - Maximum Certification Action : Revocation
 - Recommended Certification Action : Revocation stayed, thirty (30) day suspension, three (3) years probation with terms and conditions.
 - Minimum Certification Action : Revocation stayed, one (1) year probation with terms and conditions.
 - Minimum Conditions of Probation: All Standard Conditions and Optional Conditions: 5, 8, 9 and 11.
4. **Incompetence** - The lack of possession of that degree of knowledge, skill, and ability ordinarily possessed and exercised by a certified EMT-I or AEMT.
 - Maximum Certification Action : Revocation
 - Recommended Certification Action: Revocation stayed, thirty (30) day suspension, three (3) years probation with terms and conditions.
 - Minimum Certification Action: Revocation stayed, one (1) year probation with terms and conditions.
 - Minimum Conditions of Probation: All Standard Conditions and Optional Conditions: 5, 8, 9 and 11.
5. **The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, and duties of prehospital personnel.**
 - Maximum Certification Action: Revocation.
 - Recommended Certification Action: Revocation stayed, sixty (60) day suspension, 3 years probation with terms and conditions.
 - Minimum Certification Action: Revocation stayed, three (3) years probation with terms and conditions.
 - Minimum Conditions of Probation: All Standard Conditions and Optional Condition: 6
6. **Conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or certified copy of the record shall be conclusive evidence of such conviction.**
 - Maximum Certification Action: Revocation.
 - Recommended Certification Action: Variable depending on the nature of the crime with terms and conditions.
 - Minimum Certification Action: Revocation stayed, one (1) year probation with terms and conditions.
 - Minimum Conditions of Probation: All Standard Conditions.

7. **Violating or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this division or the regulations adopted by the authority pertaining to prehospital personnel.**
 - Maximum Certification Action: Revocation
 - Recommended Certification Action: Revocation stayed, sixty (60) day suspension, 3 years probation with terms and conditions.
 - Minimum Certification Action: Revocation stayed, three (3) years probation with terms and conditions.
 - Minimum Conditions of Probation: All Standard Conditions and Optional Conditions: 6.
8. **Violating or attempting to violate any federal or state statute or regulation which regulates narcotics, dangerous drugs, or controlled substances.**
 - Maximum Certification Action : Revocation
 - Recommended Certification Action: Revocation stayed, sixty (60) day suspension, 3 years probation with terms and conditions.
 - Minimum Certification Action: Revocation stayed, three (3) years probation with terms and conditions.
 - Minimum Conditions of Probation: All Standard Conditions and Optional Conditions: 1, 2, 3, 4, and 10.
9. **Addiction to the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.**
 - Maximum Certification Action : Revocation
 - Recommended Certification Action: Revocation stayed, suspension until successful completion of drug/alcohol detoxification diversion program five (5) years probation with terms and conditions.
 - Minimum Certification Action: Revocation stayed, three (3) years probation with terms and conditions.
 - Minimum Conditions of Probation: All Standard Conditions and Optional Conditions: 1, 2, 3, 4, and 10.
10. **Functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification.**
 - Maximum Certification Action: Revocation
 - Recommended Certification Action: Revocation stayed, fifteen (15) day suspension, 1 year probation with terms and conditions.
 - Minimum Certification Action: Revocation stayed, one (1) year probation with terms and conditions.
 - Minimum Conditions of Probation: All Standard Conditions and Optional Conditions: 5 and 8.

11. **Demonstration of irrational behavior or occurrence of a physical disability to the extent that a reasonable and prudent person would have reasonable cause to believe that the ability to perform the duties normally expected may be impaired.**

- Maximum Certification Action: Revocation
- Recommended Certification Action: Revocation stayed, suspension until resolution of the physical or mental disability.
- Minimum Certification Action: Revocation stayed, one (1) year probation with terms and conditions.
- Minimum Conditions of Probation: All Standard Conditions and Optional Conditions: 8, 9, and 10.

12. **Unprofessional Conduct-**

(A) The mistreatment or physical abuse of any patient resulting from force in excess of what a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of his or her duties would use if confronted with a similar circumstance. Nothing in this section shall be deemed to prohibit an EMT-I, AEMT or EMT-P from assisting a peace officer, or a peace officer who is acting in the dual capacity of peace officer and EMT-I, EMT-II, or EMT-P, from using that force that is reasonably necessary to effect a lawful arrest or detention.

- Maximum Certification Action: Revocation/Denial
- Recommended Certification Action: Revocation stayed, sixty (60) day suspension, three (3) years probation with terms and conditions.
- Minimum Certification Action: Revocation stayed, three (3) years probation with terms and conditions.
- Minimum Conditions of Probation: All Standard Conditions and Optional Conditions: 7 and 10.

(B) The failure to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law in Sections 56 and 56.6, inclusive of the Civil Code.

- Maximum Certification Action: Revocation/Denial
- Recommended Certification Action: Revocation stayed, thirty (30) day suspension, one (1) year probation with terms and conditions.
- Minimum Certification Action: Revocation stayed one (1) year probation with terms and conditions.
- Minimum Conditions of Probation: All Standard Conditions and Optional Conditions: 6 and 9.

(C) The commission of any sexually related offense specified under Section 290 of the Penal Code.

- Maximum Certification Action : Revocation/ Denial
- Recommended Certification Action : Revocation/Denial
- Minimum Certification Action : Revocation/Denial

Section IV: DETOXIFICATION/DIVERSION PROGRAM CRITERIA

The criteria to be considered in determining rehabilitation for alcohol/drug abuse offenses include, but are not limited to:

- Successful completion of a drug/alcohol treatment program (a minimum of six (6) months duration). The treatment program may be a combined in-patient/out-patient and aftercare program. The program shall include at least the following elements:
 1. Chemical-free treatment philosophy;
 2. Individual and/or group counseling;
 3. Random, documented biological fluid testing;
 4. Participation in support groups;
 5. Education about addictive disease;
 6. Adherence to a 12-step recovery program philosophy or equivalent;
 7. Written documentation of participation in a 12-step recovery group or equivalent.
- Employment with a pre-hospital care provider, for a minimum of six (6) months, with documentation from the employer that the employer was aware of the previous drug or alcohol abuse problems. The documentation must substantiate that while employed, there was no evidence of continued alcohol or drug use and that the respondent performed EMT-I or AEMT functions in a safe and competent manner.
- If the respondent is seeking reinstatement of his/her certification, employment for a minimum of six (6) months with documentation from the employer that while employed, there was no evidence of alcohol or drug use.
- A minimum of one (1) year must have elapsed between the time of the second offense and the effective date of the prior order.

Section V: MITIGATING EVIDENCE

The respondent is permitted to present mitigating circumstances at a hearing. The same opportunity is provided in the settlement process.

The following documents are examples of appropriate evidence the respondent may submit to demonstrate his/her rehabilitative efforts and competency:

- A. Dated written statements from persons in positions of authority who have on-the-job knowledge of the respondent's current EMT-I or AEMT competence. Each statement should include the period of time and capacity in which the person worked with the respondent and should contain the following sentence at the end: **"I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct to the best of**

- my knowledge.**" The statement should be signed and dated by the person making the statement;
- B. Dated letters from counselors regarding the respondent's participation in a rehabilitation or recovery program, where appropriate. The letters should include a description of the program, the number of sessions that the respondent has attended, the counselor's diagnosis of the respondent's condition, the respondent's prognosis for recovery, the respondent's current state of rehabilitation (or improvement), the counselor's basis for determining improvement, and the credentials of the counselor;
 - C. Dated letters describing the respondent's participation in support groups;
 - D. Dated laboratory analyses or drug screen reports, where appropriate;
 - E. Dated performance evaluation(s) from the respondent's employer;
 - F. Dated physical examination or assessment report by a licensed physician;
 - G. Certificates or transcripts of courses related to EMT-I or AEMT duties that the respondent might have completed since the date of the violation. **An EMT whose certification has been revoked does not possess an EMT certification. Therefore, the individual cannot use his/her former certification number to obtain continuing education credit/hours or for any other purpose. However, he or she may take continuing education courses so long as an EMT certification is not used.**
 - H. Evidence of community service or other educational experiences.

Section VI: LANGUAGE FOR MODEL DISCIPLINARY ORDERS

Standard Revocation Orders

Revocation - Single Cause:

Certification Number _____ issued to the respondent, _____, is revoked.

Revocation - Multiple Causes:

Certification Number _____ issued to the respondent, _____, is revoked pursuant to Determination of Issues: _____, jointly and separately.

Standard Stay Order

Standard Stay Order:

However, such revocation is stayed and the respondent is placed on probation for _____ year(s) upon the following terms and conditions:

(List of terms and conditions)

Standard Suspension Orders

Suspension - Single Cause:

Certification Number _____ issued to the respondent, _____, is suspended for _____.

Suspension - Multiple Causes: (Concurrent)

Certification Number _____ issued to the respondent, _____, is suspended for _____ pursuant to determination of issues: _____, jointly and separately. All suspensions shall run concurrently.

Suspension - Multiple Causes: (Consecutive)

Certification Number _____ issued to the respondent, _____, is suspended for _____ pursuant to determination of issues: _____, jointly and separately. All suspensions shall run consecutively.

Standard Conditions of Probation

1. Probation Compliance:

The respondent shall fully comply with all terms and conditions of the probationary order. The respondent shall fully cooperate with the LEMSA in its monitoring, investigation, and evaluation of the respondent's compliance with the terms and conditions of his/her probationary order.

The respondent shall immediately execute and submit to the LEMSA all Release of Information forms that the LEMSA may require of the respondent.

2. Personal Appearances:

As directed by the LEMSA, the respondent shall appear in person for interviews, meetings, and/or evaluations of the respondent's compliance with the terms and conditions of the probationary order. The respondent shall be responsible for all of his/her costs associated with this requirement.

3. Quarterly Report Requirements:

During the probationary period, the respondent shall submit quarterly reports covering each calendar quarter which shall certify, under penalty of perjury, and

document compliance by the respondent with all the terms and conditions of his/her probation. If the respondent submits his/her quarterly reports by mail, it shall be sent as registered mail.

4. Employment Notification:

During the probationary period, the respondent shall notify the LEMSA in writing of any EMS employment. The respondent shall inform the LEMSA in writing of the name and address of any prospective EMS employer prior to accepting employment.

Additionally, the respondent shall submit proof in writing to the LEMSA of disclosure, by the respondent, to the current and any prospective EMS employer of the reasons for and terms and conditions of the respondent's probation.

The respondent authorizes any EMS employer to submit performance evaluations and other reports which the LEMSA may request that relate to the qualifications, functions, and duties of an EMT.

Any and all notifications to the LEMSA shall be by registered mail.

5. Notification of Termination:

During the probationary period, the respondent shall notify the LEMSA within seventy-two (72) hours after termination, for any reason, with his/her prehospital medical care employer. The respondent must provide a full, detailed written explanation of the reasons for and circumstances of his/her termination.

Any and all notifications to the LEMSA shall be by registered mail.

6. Functioning as an EMT:

The period of probation shall not run anytime that the respondent is not practicing as an **EMT** within the jurisdiction of California.

If the respondent, during his/her probationary period, leaves the jurisdiction of California to practice as an EMT, the respondent must immediately notify the LEMSA, in writing, of the date of such departure and the date of return to California, if the respondent returns.

Any and all notifications to the LEMSA shall be by registered mail.

7. Obey All Related Laws:

The respondent shall obey all federal, state and local laws, statutes, regulations, written policies, protocols and rules governing the practice of medical care as an EMT-I or AEMT. The respondent shall not engage in any conduct that is grounds for disciplinary action pursuant to Section 1798.200. To permit monitoring of compliance with this term, if the respondent has not submitted fingerprints to the

LEMSA in the past as a condition of certification, then the respondent shall submit his/her fingerprints by Live Scan or by fingerprint cards and pay the appropriate fees within forty-five (45) days of the effective date of this decision.

Within seventy-two (72) hours of being arrested, cited or criminally charged for any offense, the respondent shall submit to the LEMSA a full and detailed account of the circumstances thereof. The LEMSA shall determine the applicability of the offense(s) as to whether the respondent violated any federal, state and local laws, statutes, regulations, written policies, protocols and rules governing the practice of medical care as an EMT.

Any and all notifications to the LEMSA shall be by registered mail.

8. Completion of Probation:

The respondent's certification shall be fully restored upon successful completion of probation.

9. Violation of Probation:

If during the period of probation the respondent fails to comply with any term of probation, the LEMSA may initiate action to terminate probation and implement actual certificate suspension/revocation. Upon the initiation of such an action, or the giving of a notice to the respondent of the intent to initiate such an action, the period of probation shall remain in effect until such time as a decision on the matter has been adopted by the LEMSA. An action to terminate probation and implement actual certificate suspension/revocation shall be initiated and conducted pursuant to the hearing provisions of either Chapter 6 of the California Code of Regulations, Title 22, Division 9, or the California Administrative Procedure Act, whichever process was used by the LEMSA.

The issues to be resolved shall be limited to whether the respondent has violated any term of his/her probation sufficient to warrant termination of probation and implementation of actual suspension/revocation. The respondent and the LEMSA shall be bound by the admissions contained in the terms of probation and neither party shall have a right to litigate the validity or invalidity of such admissions.

Optional Conditions of Probation

1. Abstinence from Drug Possession and Use:

The respondent shall abstain from the possession, injection or consumption by any route of all controlled substances, dangerous drugs, or any drugs requiring a prescription unless prescribed under federal or state law as part of a documented medical treatment. Within fourteen (14) days of obtaining such a prescription, respondent shall ensure that the prescribing professional provides the LEMSA a written report identifying the medication, dosage, the date the medication was

prescribed, the respondent's diagnosis, and the date the medication will no longer be required. This report must be provided to the LEMSA directly by the prescribing professional.

If the respondent has a lawful prescription when initially placed on probation, this same report must be provided within fourteen days of the commencement of probation.

Any and all notifications to the LEMSA shall be by registered mail.

2. Abstinence from the Use of Alcoholic Beverages:

The respondent shall abstain from the use of alcoholic beverages.

3. Biological Fluid Testing:

The respondent shall submit to routine and random biological fluid testing or drug/alcohol screening as directed by the LEMSA or its designee. Respondent may use a lab pre-approved by the LEMSA or may provide to the LEMSA the name and location of an independent laboratory or drug/alcohol testing facility for approval by the LEMSA. Lab approval shall be based on criteria regulating professional laboratories and drug/alcohol testing facilities as set forth in Chapter 3, Division 2, of the Business and Professions Code and Division 1 of Title 17 of the California Code of Regulations. When the LEMSA requests a random test, the respondent shall provide the required blood/urine sample by the time specified, or within twelve (12) hours of the request if no time is specified. When the LEMSA requests a random test, the respondent shall ensure that any positive test results are conveyed telephonically by the lab to the LEMSA within forty-eight (48) hours, and all written positive or negative results are provided directly by the lab to the LEMSA within ten (10) days. The respondent shall be responsible for all costs associated with the drug/alcohol screening.

The LEMSA may allow the random drug testing to be conducted by a laboratory under contract with the respondent's employer to meet the requirement of random drug testing as set forth in this section. The results of the employer's random drug testing shall be made available to the LEMSA in the time frames described above.

4. Drug/Detoxification/Diversion Program:

Within _____ days of the effective date of this decision, the respondent shall enroll and participate in a drug/detoxification/diversion program approved by the LEMSA. The respondent shall participate in the program until appropriate medical supervision determines that further treatment and rehabilitation is no longer necessary.

If the respondent voluntarily withdraws from the drug/detoxification/diversion

program or the respondent is expelled from the program, such withdrawal or expulsion shall constitute a violation of probation by the respondent. The respondent shall be responsible for all costs associated with such drug/detoxification/diversion program.

5. Educational Course Work:

Within _____ days of the effective date of this decision, the respondent shall submit to the LEMSA proof of completion of _____ hours of education in areas substantially related to the offense as stated in the accusation and to the satisfaction of the LEMSA.

Any educational program may include community service to reinforce the learning objectives of the educational program.

All courses must be approved by the LEMSA. Within thirty-five (35) days after completing the course work, the respondent shall submit evidence of competency in the required education. Submittal of a certificate or letter from the instructor attesting to the respondent's competency shall suffice.

Any and all notifications to the LEMSA shall be by registered mail.

6. Ethical Practice of EMS:

Within _____ days of the effective date of this decision, the respondent shall submit to the LEMSA, for its prior approval, a course in Ethics. The respondent must complete this course during his/her probation period.

Upon completion by the respondent of the Ethics course, the respondent shall submit proof to the LEMSA that he/she fulfilled all course requirements.

Any and all notifications to the LEMSA shall be by registered mail.

7. Stress/Anger Management:

Within _____ days of the effective date of this decision, the respondent shall enroll and participate in a local, court approved, stress/anger management program, which the respondent shall complete during his/her probation. Upon completion of the approved program, the respondent shall submit proof to the LEMSA that he/she has fulfilled all course requirements.

Any and all notifications to the LEMSA shall be by registered mail.

8. Practical Skills Examination:

Within _____ days of the effective date of this decision, the respondent shall submit to and pass a skills examination in subjects substantially related to the accusation based upon the U. S. Department of Transportation (DOT) and/or the National Registry of Emergency Medical Technicians (NREMT) skills examination, when applicable. If not addressed in the DOT or NREMT, an

approved local standard shall be identified and utilized. The skills examination shall be administered by a board selected by the LEMSA using the pre-established criteria (See Section VII: Review Board for criteria).

The respondent shall not be allowed to function as an EMT until the respondent passes the examination. The respondent has the option and right to repeat the examination. There shall be at least a two (2) week period between examinations. No more than three (3) attempts to pass the examination shall be allowed. If the respondent fails to pass the exam after three (3) attempts, or chooses not to retake the examination, the respondent's certification shall be revoked.

9. Oral Skills Examination:

Within _____ days of the effective date of this decision, the respondent shall submit to and pass an oral exam in subjects substantially related to the accusation. The oral exam shall be administered by an examination board selected by the LEMSA using pre-established criteria (See Section VII: Review Board for criteria).

The respondent shall not be allowed to function as an EMT-I or AEMT until the respondent passes the examination. The respondent has the option and right to repeat the examination. There shall be at least a two (2) week period between examinations. No more than three (3) attempts to pass the examination shall be allowed. If the respondent fails to pass the exam after three (3) attempts, or chooses not to retake the examination, the respondent's certification shall be revoked.

10. Psychiatric/Medical Evaluation:

Within _____ days of the effective date of this decision, and on a periodic basis as specified by a psychiatrist certified by the American Board of Psychiatry and Neurology, or other specialist as determined by the medical director of the LEMSA, the respondent shall submit to a psychiatric evaluation. The psychiatrist must be approved by the LEMSA prior to the evaluation. The LEMSA may allow the psychiatric evaluation to be conducted by the respondent employer's employee assistance program that meets the qualifications as set forth above. The respondent shall be responsible for all costs associated with the evaluation.

Within _____ days of the effective date of this decision, and on a periodic basis as specified by a licensed physician, or other specialist as determined by the medical director of the LEMSA the respondent shall submit to a medical evaluation. The physician must be approved by the LEMSA prior to the evaluation. The LEMSA may allow the medical evaluation to be conducted by the respondent employer's contracted physician that meets the qualifications as set

forth above. The respondent shall be responsible for all costs associated with the evaluation.

The LEMSA shall have the sole discretion to determine if the respondent may continue to practice as an EMT until such time that the psychiatrist or physician evaluates and determines that the respondent is mentally and/or physically fit to practice safely as an EMT.

11. Performance Improvement Plan:

The respondent shall function as a practicing EMT while on probation, except during the time when the respondent's certification is suspended by a term or condition of the disciplinary order.

The respondent shall submit to the LEMSA periodic Performance Improvement Plan reports compiled by his/her employer, LEMSA, or approved education provider. These reports shall document improvement as desired in the plan in order to satisfy this condition. The Performance Improvement Plan shall be developed by the LEMSA in conjunction with the respondent's employer(s). Performance Improvement Plan reports shall be submitted to the LEMSA every _____ days for a period of _____.

A Performance Improvement Plan may include, but not be limited to, education and/or evaluation of the respondent in areas substantially related to the accusation as follows:

1. Remedial training by a preceptor in a field or clinical setting.
2. Remedial training with performance demonstration by the respondent.
3. Policy review by the respondent.
4. Participation by the respondent in Quality Assurance/Quality Improvement review audits.

Any and all notifications to the LEMSA shall be by registered mail.

Section VII: REVIEW BOARD

The LEMSA shall convene a Review Board to meet the requirements of Optional Conditions 8 and 9 of the Conditions of Probation. The board would be responsible for testing the respondent per the terms and conditions of probation. The board shall submit to the LEMSA its recommendation as to whether the respondent has successfully completed the exam.

Each board shall consist of an EMS physician, an EMT or AEMT, and an EMS educator. All board members must be currently active in California in an EMS clinical or administrative capacity.

Any individual that meets the minimum criteria to serve on the board may apply to the LEMSA for a position on the board. The LEMSA shall review the applications for eligibility and establish a list of qualified individuals.

When it is necessary to convene a board, the LEMSA shall select individuals from the list to serve on the board. The LEMSA shall make reasonable attempts to convene a regional board based upon the location of the respondent. Each board member shall be required to sign a document advising that he/she does not have a conflict with the respondent (i.e. personal friend, employer, EMS oversight, etc.).

The term for any board member shall be two (2) years. At the conclusion of the term, a board member may reapply.

Board Member Qualifications

Physician

- Must be licensed by the California Medical Board.
- Must have five (5) or more years of experience in EMS.
- Must not have had any discipline brought against him/her by the Medical Board of California.
- Must not have any criminal convictions.

EMT-I or AEMT

- Must be currently certified in California without any restrictions.
- Must not have had certification actions for actions for disciplinary cause as defined under the Health and Safety Code, Division 2.5, Section 1798.200 (e).
- Must not have any criminal convictions
- Must have two (2) or more years prehospital EMS experience

Educator

- Must qualify as a course director or principal instructor for an EMT-I or AEMT Training Program as that term is defined in California Code of Regulations, Title 22, Division 9, Chapter 2 Section 100070, for EMT-Is, or Chapter 3 Section 10109, for AEMT s.
- Must have five (5) or more years of experience in EMS with at least two (2) years as an EMS educator in an EMT or AEMT training program.
- Must not have had certification actions by their Professional Licensing/Certification Board.
- Must not have any criminal convictions.

Appendix A (MDOs)

ASSESSMENT USING MEDICAL MODEL FOR DETERMINING IMPAIRMENT IN EMT CERTIFICATE HOLDERS OR APPLICANTS WITH DRUG / ALCOHOL RELATED INVESTIGATIONS, ARRESTS, AND/OR CONVICTIONS PURSUANT TO H&S 1798.200(c)(9)

Offenses:	Applicant	Certificate holder
One Misdemeanor Alcohol or Drug-Related Conviction Within 5 Years of Applying for EMT Certification, or Conviction for Misdemeanor Alcohol or Drug-Related offense	<ol style="list-style-type: none"> 1. Obtain a medical and psychiatric evaluation by a physician certified in addiction medicine by the American Society of Addiction Medicine (ASAM) or the American Board of Psychiatry and Neurology (ABPN) at applicant's expense. <ol style="list-style-type: none"> a. If no signs of impairment, offer certification with 2 years probation with standard terms and conditions. No random testing required. b. If the individual is impaired, deny certification. 	<ol style="list-style-type: none"> 1. Obtain a medical and psychiatric evaluation by a physician certified in addiction medicine by the American Society of Addiction Medicine (ASAM) or the American Board of Psychiatry and Neurology (ABPN) at applicant's expense. <ol style="list-style-type: none"> a. If no signs of impairment certification will be revoked, stayed, 3 years probation with standard terms and conditions. Random testing may be waived. b. If impaired, certification will be revoked. <ol style="list-style-type: none"> i. Reinstatement will require that certificate holder go through re-application process and demonstrate 2 years of sobriety ii. Applicant will be required to obtain a medical and psychiatric evaluation by a physician certified by the American Society of Addiction Medicine (ASAM) at applicant's expense within 30 days of re-applying for licensure. iii. Random testing required. Workplace monitoring may be required.
Two Misdemeanor Alcohol-Related Convictions Within 5 Years of Applying for EMT Certification, or Misdemeanor Alcohol-Related Arrest/Conviction While on	<ol style="list-style-type: none"> 1. Obtain a medical and psychiatric evaluation by a physician certified in addiction medicine by the American Society of Addiction Medicine (ASAM) or the American Board of Psychiatry and Neurology (ABPN) at applicant's expense. <ol style="list-style-type: none"> a. If no signs of impairment, offer probation for 2 years with standard terms and conditions. Random testing required. 	<ol style="list-style-type: none"> 1. Temporary suspension order (TSO) pursuant to Section 100213 of Chapter 6, Division 9, Title 22, California Code of Regulations. 2. Obtain medical and psychiatric evaluation by a physician certified in addiction medicine by the American Society of Addiction Medicine (ASAM) or the American Board of Psychiatry and Neurology (ABPN) at applicant's expense.

Offenses:	Applicant	Certificate holder
Probation	<p>Workplace monitoring may be required.</p> <p>b. If the individual is impaired, deny certification.</p>	<p>a. If no signs of impairment certificate holder will receive 30 to 90 days actual suspension time with additional terms and conditions and additional probation time. Random testing required. Workplace monitoring may be required.</p> <p>3. If impaired, certification will be revoked.</p> <p>a. Reinstatement will require that Certificate holder go through re-application process and demonstrate 2 years of sobriety</p> <p>b. Certificate holder will be required to obtain a medical and psychiatric evaluation by a physician certified in addiction medicine by the American Society of Addiction Medicine (ASAM) or the American Board of Psychiatry and Neurology (ABPN) at applicant's expense within 30 days of re-applying for licensure. Random testing will be required. Workplace monitoring may be required.</p>
Two Misdemeanor Drug-Related Convictions in the past 5 years	Deny Certification	Revoke Certification
Three Misdemeanor Alcohol-Related Convictions Within 5 Years of Applying for EMT Certification, or Third Misdemeanor Alcohol-Related Arrest/Convictions While on Probation	Deny Certification	<ol style="list-style-type: none"> TSO and revocation Reinstatement will require that certificate holder go through re-application process and demonstrate 2 years of sobriety Certificate holder will be required to obtain a medical and psychiatric evaluation by a physician certified in addiction medicine by the American Society of Addiction Medicine (ASAM) or the American Board of Psychiatry and Neurology (ABPN) at applicant's expense within 30 days of re-applying for licensure. Random testing will be required. Workplace monitoring may be required

Offenses:	Applicant	Certificate holder
Investigation, Arrest or Conviction for Drinking or Drug use on-Duty, or Theft or Diversion of Drugs Intended for Patient Care	<p>1. Obtain medical and psychiatric evaluation by a physician certified in addiction medicine by the American Society of Addiction Medicine (ASAM) or the American Board of Psychiatry and Neurology (ABPN) at applicant's expense.</p> <ul style="list-style-type: none"> a. If no signs of impairment, offer probation for 2 years with standard terms and conditions. No random testing required. b. If the individual is impaired, deny certification. 	<p>1. TSO and revocation</p> <p>2. Reinstatement will require that certificate holder go through re-application process and demonstrate 2 years of sobriety</p> <p>3. Obtain medical and psychiatric evaluation by a physician certified in addiction medicine by the American Society of Addiction Medicine (ASAM) or the American Board of Psychiatry and Neurology (ABPN) at applicant's expense within 30 days of re-applying for certification. Random testing will be required. Workplace monitoring required</p>

Appendix B (MDOs)

CHECKLIST OF IMPOSED DISCIPLINE

The local EMS agency (LEMSA) shall use the “Recommended Guidelines for Disciplinary Orders and Conditions of Probation” in setting disciplinary matters when an EMT-I or AEMT applicant or certificate holder is subject to certification action due to disciplinary cause.

When making a decision regarding certification action pursuant to Section 1798.200 the LEMSA may give credit for discipline imposed by the employer for the same conduct.

The tables on the reverse enumerate the recommended certification actions that may be taken by the LEMSA and the optional terms and conditions of probation as detailed in the guidelines cited above. The left column of the table denotes the recommended action sought by the LEMSA. The right column is used to denote the action imposed by the employer. Use the chart below to determine which optional conditions of probation are applicable to the violations listed in section 1798.200 of the Health and Safety Code.

Quick Reference				
Violation	Discipline			Optional Conditions of Probation
	Maximum	Recom'd.*	Minimum*	
1798.200(c):				
(1) Fraud in the Procurement	Rev/Denial	Rev/Denial	60 days	N/A
(2) Gross Negligence	Rev.	60 days, 3 years	3 years	5, 8, 9, 11
(3) Repeated Negligent Acts	Rev.	30 days, 3 years	1 year	5, 8, 9, 11
(4) Incompetence	Rev.	30 days, 3 years	1 year	5, 8, 9, 11
(5) Fraudulent, Dishonest, Corrupt Acts	Rev.	60 days, 3 years	3 years	6
(6) Conviction of a Crime	Rev.	Variable	1 year	N/A
(7) Violating Division 2.5 or Regulations	Rev.	60 days, 3 years	3 years	6
(8) Violating Drug Statutes or Regulations	Rev.	60 days, 3 years	3 years	1, 2, 3, 4, 10
(9) Addiction or Misuse	Rev.	Indef., 3 yrs [†]	3 years	1, 2, 3, 4, 10
(10) Outside Medical Control	Rev.	15 days, 1 year	1 year	5, 8
(11) Irrational Behavior	Rev.	Indef., [†]	1 year	8, 9, 10
(12) Unprofessional Conduct:				
(A) Mistreatment of Abuse of a Patient	Rev/Denial	60 days, 3 years	3 years	7, 10
(B) Failure to Maintain Confidentiality	Rev/Denial	30 days, 1 year	1 year	6, 9
(C) Commission of any PC 290 Offense	Rev/Denial	Rev/Denial	Rev/Denial	N/A

Note: Days refers to suspension, years refer to probation

* Including all standard terms and conditions and optional conditions if applicable.

† Suspension time is indefinite: until completion of a detoxification program or until resolution of the physical or mental disability.

Paramedic Accreditation & Licensure

Local EMS Agency Investigative Process

The following investigative procedure will be utilized by the Agency for complaints related to Paramedics in the County of Santa Clara.

Agency Responsibility

Incidents should be reported to the Agency in writing. However, based on the severity or nature of an incident, the EMS Duty Chief may be notified twenty-four (24) hours a day. Upon receipt of a System Variance Report (SVR), the Agency will conduct a review of the incident under the supervision of the EMS Medical Director and/or EMS Agency Director.

As the Local Emergency Medical Services Agency (LEMSA), Santa Clara County EMS Agency is responsible for paramedic accreditation and works with the State of California EMS Authority on paramedic licensure issues. The Agency is responsible for the initial investigation and evidence collection and may offer a PIP as a means of resolution when appropriate.

Complaint / System Variance Report (SVR) Received

When a complaint or is received in writing, the Agency will issue a case number and determine if further review is indicated. The Agency will then evaluate the preliminary information and determine which agency, if any, should handle the case. If the Agency deems no further action necessary or the complaint to be unfounded, the case will be closed.

Discovery and Preliminary Review

The Agency will begin to review the circumstances related to the complaint. In this phase actions such as, but not limited to, collection of patient care records, CAD data, incident reports, audiotapes, etc. may occur. The employer may or may not be involved in the investigation at this point. Upon review of the circumstances, the Agency will either close the case with an offer of education, find the complaint to be unsubstantiated, or submit to the State of California EMS Authority.

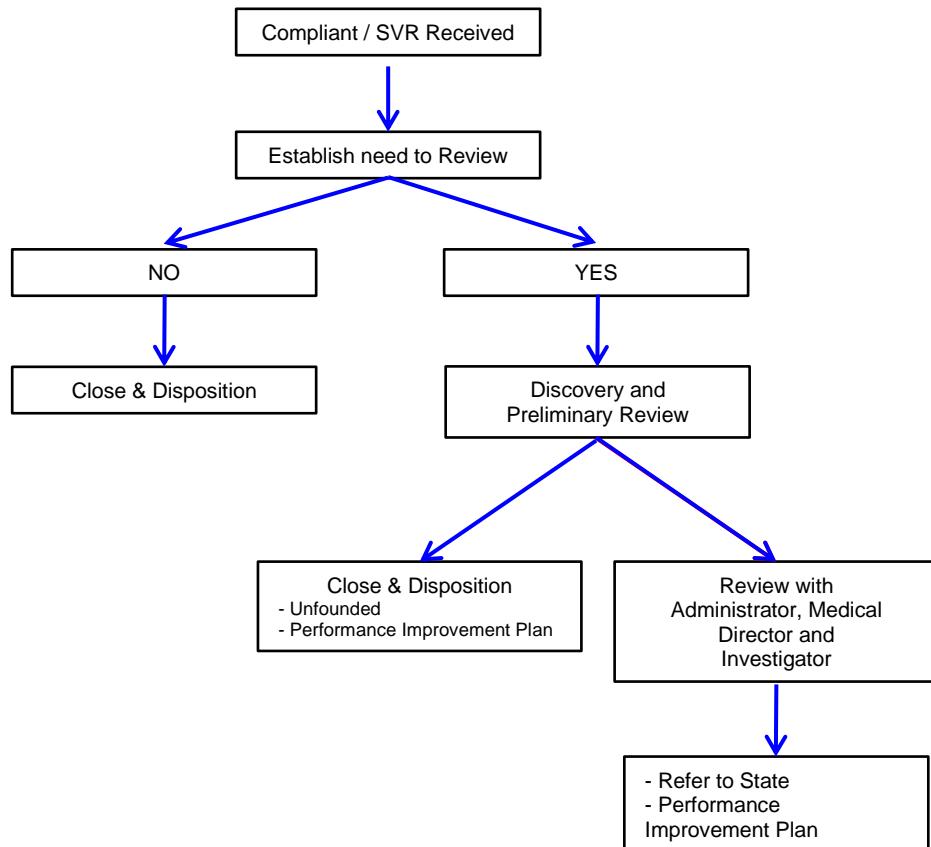
If education is offered, the Agency Performance Improvement Plan (PIP) must be utilized. The Agency may work in cooperation with the subject's employer or other appropriate system resources in the development and execution of the PIP. Failure to complete a PIP may result in immediate administrative action.

Formal Investigation

A formal investigation may be conducted by the Agency if requested by EMSA. This may consist of, but is not limited to, further collection and review of documents, evidence collection, interviews, etc. When the need for a formal investigation has been determined, the paramedic and their employer will be notified in writing by mail.

The respondent shall be allowed representation of his/her choice through all processes of the investigation. Any such representation shall be at the respondent's expense.

Paramedic Investigation Diagram



References

- 1) California Code of Regulations, Title 22, Division 9, Chapter 6 – Process for EMT Certification Disciplinary Action
 - a. EMT Recommended Guidelines for Disciplinary Orders and Conditions of Probation
- 2) Firefighter's Procedural Bill of Rights Act, California Government Code, Section 3250-3262
- 3) Administrative Procedures Act, California Government Code, Section 11500-11529
- 4) California Code of Regulations, Title 22, Division 9, Chapter 4, Article 9 – Paramedic Discipline and Reinstatement of License
 - a. Paramedic Recommended Guidelines for Disciplinary Orders and Conditions of Probation

EMT - Admonishment of Rights Under the Firefighters Procedural Bill Of Rights Act

The County of Santa Clara Emergency Medical Agency (Agency) is conducting an investigation into matters that may result in disciplinary action against your EMT certification pursuant to California Health and Safety Code Section 1798.200 and the California Code of Regulations. As a person covered or potentially covered under the Firefighters Procedural Bill of Rights Act (California Government Code Section 3250 et.seq.), the Agency is informing you of certain rights you have pertaining to this investigation interview.

You have the right to:

1. Have this investigation interview conducted at a reasonable hour, during your normal duty time.
2. Be informed of the name and job classification of the Agency employee conducting the investigation interview.
3. Be informed of the nature of the investigation.
4. Have the investigation interview conducted for a reasonable period of time. Reasonable breaks to attend to your personal physical necessities will be allowed.
5. An investigation interview free from offensive language. There are no rewards for answering questions, nor punishments for refusing to answer questions. The Agency requests that you answer any questions that you choose to respond to completely, honestly, and accurately to the best of your recollection.
6. Record this investigation interview with your own recording device if you choose. This investigation interview may be recorded by Agency personnel. If it is recorded by Agency personnel, you have a right to request and obtain a complete copy of the recording.
7. Obtain a copy of any complaints or reports associated with this investigation, subject to any laws pertaining to confidentiality of such documents.
8. Have a representative of your choosing and expense present during the entire investigation interview, however this person cannot be subject to this same investigation.
9. Give your express consent prior to searching any personal locker or storage space under your exclusive control. You have the right to refuse to provide consent if you choose.

I acknowledge that I have received a copy of this document prior to commencement of this investigation interview.

Name (Print)

EMT Certificate #

Signature

Date

PARAMEDIC - Admonishment of Rights Under the Firefighters Procedural Bill Of Rights Act

The County of Santa Clara Emergency Medical Agency (Agency) is conducting an investigation into matters that may result in disciplinary action against your paramedic accreditation and/or license pursuant to California Health and Safety Code Section 1798.200 and the California Code of Regulations. As a person covered or potentially covered under the Firefighters Procedural Bill of Rights Act (California Government Code Section 3250 et.seq.), the Agency is informing you of certain rights you have pertaining to this investigation interview.

You have the right to:

1. Have this investigation interview conducted at a reasonable hour, during your normal duty time.
2. Be informed of the name and job classification of the Agency employee conducting the investigation interview.
3. Be informed of the nature of the investigation.
4. Have the investigation interview conducted for a reasonable period of time. Reasonable breaks to attend to your personal physical necessities will be allowed.
5. An investigation interview free from offensive language. There are no rewards for answering questions, nor punishments for refusing to answer questions. The Agency requests that you answer any questions that you choose to respond to completely, honestly, and accurately to the best of your recollection.
6. Record this investigation interview with your own recording device if you choose. This investigation interview may be recorded by Agency personnel. If it is recorded by Agency personnel, you have a right to request and obtain a complete copy of the recording.
7. Obtain a copy of any complaints or reports associated with this investigation, subject to any laws pertaining to confidentiality of such documents.
8. Have a representative of your choosing and expense present during the entire investigation interview, however this person cannot be subject to this same investigation.
9. Give your express consent prior to searching any personal locker or storage space under your exclusive control. You have the right to refuse to provide consent if you choose.

I acknowledge that I have received a copy of this document prior to commencement of this investigation interview.

Name (Print)

Paramedic License #

Signature

Date