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### **Psychological Fitness-for-Duty Evaluation Guidelines**

*Ratified by the IACP Police Psychological Services Section*

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#### **Purpose**

The IACP Psychological Services Section developed these guidelines for use by public safety agencies and mental health examiners. These guidelines are not intended to establish a rigid standard of practice for psychological fitness-for-duty evaluations (FFDEs). Instead, they are intended to reflect the commonly accepted practices of the section members and the agencies they serve. Each of the guidelines may not apply in a specific case or in all situations. The decision as to what is or is not done in a particular instance is ultimately the responsibility of each agency and professional examiner.

#### **Definition**

A psychological FFDE is a formal, specialized examination of an incumbent employee that results from (1) objective evidence that the employee may be unable to safely or effectively perform a defined job and (2) a reasonable basis for believing that the cause may be attributable to psychological factors. The central purpose of an FFDE is to determine whether the employee is able to safely and effectively perform his or her essential job functions.

#### **Threshold Considerations**

1. Referring an employee for an FFDE is indicated whenever there is an objective and reasonable basis for believing that the employee may be unable to safely or effectively perform his or her duties due to psychological factors. An objective basis is one that is not merely speculative but derives from direct observation, credible third-party report, or other reliable evidence.
2. FFDEs necessarily intrude on the personal privacy of the examinee and therefore should be conducted after the employer has determined that other options are inappropriate or inadequate in light of the facts of a particular case. The FFDE is not to be used as a substitute for disciplinary action.
3. If an employer is uncertain whether its observations and concerns warrant an FFDE, it may be useful to discuss them with the employer's examiner or legal counsel prior to mandating the examination.

## **Examiner Qualifications**

4. In light of the nature of these evaluations and the potential consequences to the agency, the examinee, and the public, it is important for examiners to perform FFDEs with maximum attention to the relevant legal, ethical, and practice standards, with particular concern for statutory and case law applicable to the employing agency's jurisdiction. Consequently, these evaluations should be conducted only by a qualified mental health professional. At a minimum, the examiner should be a licensed psychologist or psychiatrist with education, training, and experience in the diagnostic evaluation of mental and emotional disorders; possess training and experience in the evaluation of law enforcement personnel; be familiar with the police psychology literature and the essential job functions of the employee being evaluated; be familiar with relevant state and federal statutes and case law, as well as other legal requirements related to employment and personnel practices (e.g., disability, privacy, third-party liability); and satisfy any other minimum requirements imposed by local jurisdiction or law.

5. When an FFDE is known to be in the context of litigation, arbitration, or another adjudicative process, the examiner should have particular training and experience in forensic psychological or psychiatric assessment. In such cases, the examiner should be prepared by training and experience to qualify as an expert in any related adjudicative proceeding.

### **Identifying the Client**

6. The client in an FFDE is the employer, not the employee being evaluated, and this fact should be communicated to all involved parties at the outset of the evaluation. Nevertheless, the examiner owes an ethical duty to both parties to be fair and impartial and to honor their respective legal rights and interests. Other legal duties also may be owed to the examinee as a result of statutory or case law unique to the employer's or the examiner's jurisdiction.

7. Examiners should decline to accept an FFDE referral when personal, professional, legal, financial, or other interests or relationships could reasonably be expected to (a) impair their objectivity, competence, or effectiveness in performing their functions or (b) expose the person or agency with whom the professional relationship exists to harm or exploitation (e.g., conducting an FFDE on an employee who had previously been a confidential counseling or therapy client, evaluating an employee with whom there has been a business or significant social relationship). Similarly, an FFDE examiner should be mindful of potential conflicts of interest related to recommendations or the provision of services following the evaluation (e.g., referring an examinee to oneself for subsequent treatment). If such conflicts are unavoidable or deemed to be of minimal impact, the examiner should nevertheless disclose the potential conflict to all affected parties.

## **Referral Process**

8. It is desirable that employers have FFDE policies and procedures that define such matters as circumstances that would give rise to an FFDE referral, mechanisms of referral and examiner selection, any applicable report restrictions, sharing results with the examinee, and other related matters.

9. The employer's referral to the examiner should include, at a minimum, a description of the objective evidence rising to concerns about the employee's fitness for duty, and any particular questions that the employer needs the examiner to address. In most circumstances, this referral should be documented in writing.

10. In the course of conducting the FFDE, it is usually necessary for the examiner to receive background and collateral information regarding the employee's past and recent performance, conduct, and functioning. The information might include, but is not limited to, performance evaluations, previous remediation efforts, commendations, testimonials, internal affairs investigations, formal citizen or public complaints, use-of-force incidents, reports related to officer-involved shootings, civil claims, disciplinary actions, incident reports of any triggering events, medical records, or other supporting or relevant documentation related to the employee's psychological fitness for duty. In some cases, examiners may ask the examinee to provide medical/psychological treatment records and other data for the examiner to consider.

11. When some portion of the information requested by an examiner is unavailable or is withheld, the examiner must judge the extent to which the absence of such information may limit the reliability or validity of his or her findings and conclusions before deciding to proceed. If the examiner proceeds with the examination, the subsequent report should include a discussion of any such limitations judged to exist.

### **Informed Consent & Authorization**

12. An FFDE requires the informed consent of the examinee to participate in the examination. At a minimum, informed consent should include a description of the nature and scope of the evaluation; the limits of confidentiality, including any information that may be disclosed to the employer without the examinee's authorization; the potential outcomes and probable uses of the examination; and other provisions consistent with legal and ethical standards for mental health evaluations conducted at the request of third parties.

13. In addition to obtaining informed consent, the examiner should obtain written authorization from the employee to release the examiner's findings and opinions to the employer. If such authorization is denied, or if it is withdrawn once the examination commences, the examiner should be aware of any legal restrictions in the information that may be disclosed to the employer without valid authorization. With valid written authorization, an examiner is free to disclose unrestricted information to the employer.

### **Evaluation Process**

14. Depending on the referral question and the examiner's clinical judgment, an FFDE typically relies on multiple methods and data sources in order to optimize the reliability and validity of findings. The range of methods and data sources frequently includes a review of the requested information (e.g., personnel records, medical records, incident reports or memos); psychological testing using assessment instruments (e.g., personality, psychopathology, cognitive, specialized) appropriate to the referral question(s); a comprehensive, face-to-face clinical interview; collateral interviews with relevant third parties if deemed necessary by the examiner; and referral to, and consultation with, a specialist if deemed necessary by the examiner.

15. Prior to conducting collateral interviews of third parties, care should be taken to obtain informed consent from the employer, the examinee, or from the third party, as appropriate. This should include, at a minimum, explanation of the purpose of the interview, how the information will be used, and any limits to confidentiality.

## **Report and Recommendations**

16. Customarily, the examiner will provide a written report to the client agency that contains a description of the rationale for the FFDE, the methods employed, and whenever possible, a clearly articulated opinion that the examinee is presently fit or unfit for unrestricted duty. The content of the report should be guided by consideration of the terms of informed consent, the employee's authorization, the pertinence of the content to the examinee's psychological fitness, the employing agency's written policies and procedures, the applicable terms of any labor agreement, and relevant law.
17. When an examinee is found unfit for unrestricted duty, the report should contain, whenever possible, the following minimum information unless prohibited by law, agency policy, labor agreement, the terms of the employee's disclosure authorization, or other considerations: a description of the employee's functional impairments or job relevant limitations; and an estimate of the likelihood of, and time frame for, a return to unrestricted duty, and the basis for that estimate.
18. It is recognized that some examiners may be asked to provide opinions regarding necessary work restrictions, accommodations, interventions, or causation. Nevertheless, the determination as to whether or not a recommended restriction or accommodation is reasonable for the specific case and agency is a determination to be made by the employer, not the examiner.
19. The examiner's findings and opinions are based on all data available at the time of the examination. If additional relevant information is obtained after completion of the FFDE or if it is determined that the original evaluation was based on inaccurate information, the employer may request that the examiner reconsider his or her conclusions in light of the additional information. Reconsideration or re-evaluation also may be indicated in circumstances where an employee, previously deemed unfit for duty, subsequently provides information suggesting his or her fitness has been restored.
20. Decisions concerning whether and how the findings and opinions resulting from the FFDE are to be communicated to the examinee should be disclosed to all parties in advance of the examination whenever possible. Such decisions should be governed by standards of professional ethics, clinical considerations, statutory and case law, and any prior agreements with the employer and examinee.
21. Some agencies may find differences of opinion between or amongst the examiner and other health care professionals. Employers should be prepared to address these differences if they arise. In such cases, the employer may find it helpful to consider (a) any differences in the professionals' areas of expertise and knowledge of the employee's job and work environment, (b) the objective bases for each opinion, and (c) whether the opinion is contradicted by information known to or observed by the employer.
22. Agencies should handle FFDE reports in conformance with legal standards governing an employer's treatment of employee medical records.