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Minnesota Department of Corrections

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<b>Policy:</b>	<b>103,220</b>	<b>Title: Personal Conduct of Employees</b>
<b>Issue Date:</b>	<b>3/1/11</b>	
<b>Effective Date:</b>	<b>4/5/11</b>	

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**AUTHORITY:** Minn. Stat. §§[15.86](#), [43A.38](#), and [241.01](#)

**PURPOSE:** To establish a standard of conduct for department employees.

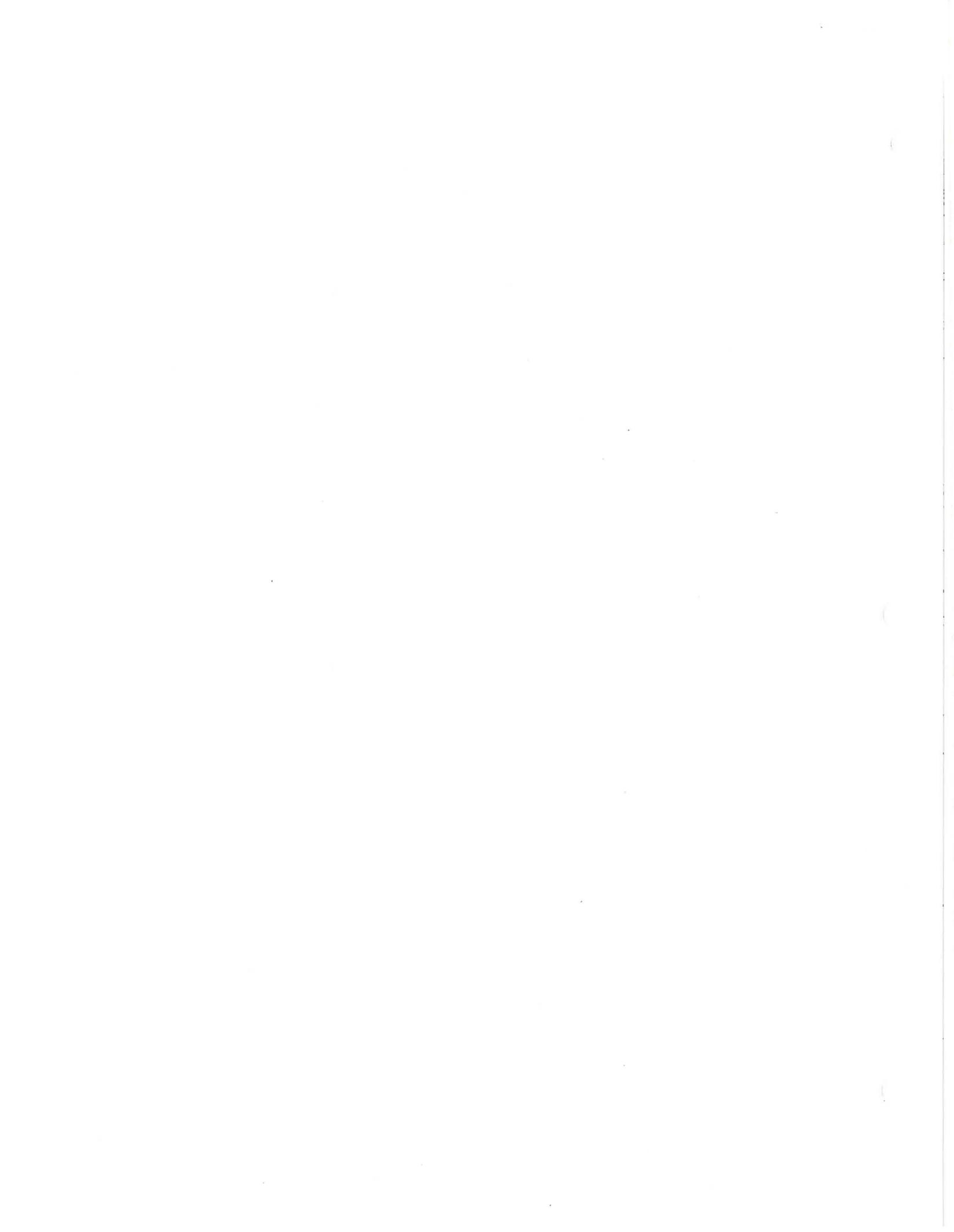
**APPLICABILITY:** All department employees.

**POLICY:** All department employees, when on and off duty, will conduct themselves in a manner that will not bring discredit or criticism to the department. Common sense, good judgment, consistency and the department's mission will be the guiding principles for the expected employee standard of conduct. Workplace violence is strictly prohibited.

**DEFINITIONS:** None

**PROCEDURES:**

- A. Employees are responsible to know department policy and procedure and act in accordance with it.
- B. Employees must not directly supervise, hire, evaluate or discipline anyone with whom they are related by blood, marriage, adoption or anyone with whom they have an intimate/romantic relationship. Intimate/romantic relationship includes dating, sexual activity, or a continual relationship of an intimate, emotional nature.
- C. Employees must not falsify documents, engage in theft or misuse of state property, or misrepresent facts or information relevant to department/state operations.
- D. Employees, when ordered, must cooperate and provide full disclosure in any department investigations involving employee or offender misconduct.
- E. Employees must not gamble on department premises or on state time.
- F. Employees are expected to treat fellow employees, offenders and the public with respect and courtesy at all times. Employees must not exhibit behavior that demonstrates prejudice or that holds any person, group or organization up to ridicule or contempt. This includes, but is not limited to:
  1. Employees must develop and demonstrate conflict competency skills, including: recognizing, understanding and acknowledging conflict; respecting the point of view of others; bringing conflict to the attention of the appropriate individual and working to resolve conflict when directly involved, in order to manage and respond to conflicts and disagreements in a positive and constructive manner to minimize negative impact, in keeping with the Integrated Conflict Management System Policy 103.229.
  2. Employees must address offenders incarcerated in adult facilities by Mr./Ms. and the offender's last name. Employees must address each other by title or Mr./Ms and last name when in the presence of offenders incarcerated in adult facilities.



3. Discrimination or harassment is not tolerated and will be dealt with in accordance with Policy 103.300, "Anti-Discrimination/Sexual Harassment."
  4. General harassment is not tolerated and will be dealt with in accordance with Policy 103.228, "General Harassment."
- G. Employees must avoid associations or dealings with persons who are known to be involved in criminal activities. Employees must immediately provide written notification to the appointing authority of any knowledge of criminal activity that has the potential to threaten public safety, the safety of staff or offenders, or the security of a correctional facility.
- H. Employees must comply with all laws of the United States and of any state and local jurisdiction. This includes, but is not limited to:
1. Any employee who is the subject of an order for protection, misdemeanor, gross misdemeanor, or felony investigation, charge, arrest and/or conviction or is incarcerated for any reason must immediately notify the appointing authority/designee in accordance with Policy 103.0141, "Employees Who Are the Subject of Criminal Investigation(s), Arrest(s) or Conviction(s)."
  2. Any employee who is required to carry a firearm will report any possible loss of eligibility in accordance with Policies 103.130, "Firearms Eligibility" and 103.0141, "Employees Who Are the Subject of Criminal Investigation(s), Arrest(s) or Conviction (s)."
  3. No smoking and/or use of tobacco products at facilities, per Policy 103.200, "Smoking and Use of Tobacco Products."
  4. Restrictions on alcohol and other drug use, per Policy 103.215, "Alcohol and Other Drug Use."
  5. Restrictions on personal associations between staff and offenders, per Policy 103.223, "Interpersonal Associations between Staff and Offenders."
- I. The department will not tolerate any form of violence including intimidation, threats of violence (physical or verbal) or violent acts in the workplace. The department will promote, establish and maintain a work environment that is free of violence. All violence will be investigated and corrective action will be promptly administered when warranted.
1. Employees must immediately report to their supervisor a threat or action, occurring in a work area under the control of the department, in which someone (i.e.: employee, client, contractor, volunteer or visitor) seeks to intimidate, threatens to harm or does harm to another person.
  2. Supervisors and managers must ensure the workplace is violence free by observing and intervening in inappropriate employee behavior and by being available to discuss and act upon employee concerns.
  3. Employees observing or experiencing work place violence are expected, if possible, to deescalate the situation and to report workplace violence to a supervisor, manager or human resources.
  4. The work incident review committee (WIRC) will convene immediately when a report of



violence or potential violence is received. The committee will determine the level of response required which may include, but is not limited to, intervention in the situation, separating employees, removing employees from the workplace, fitness for duty evaluation, referral to the integrated conflict management system (ICMS), or involving the state employee assistance program (EAP) or law enforcement.

5. The appointing authority must ensure incidents of workplace violence are investigated, when appropriate, and determine the appropriate action to be taken or discipline to be administered. Employees found to have engaged in workplace violence may receive disciplinary action up to and including discharge from employment.

**REVIEW:** Annually

**REFERENCES:** [Policy 103.0141, "Employees Who Are the Subject of Criminal Investigations, Arrests and/or Convictions"](#)  
[Policy 103.130, "Firearms Eligibility"](#)  
[Policy 103.205, "Employee Assistance Program"](#)  
[Policy 103.222, "Communication Outside the Department"](#)  
[Policy 103.225, "Employee Discipline Administration"](#)  
[Policy 103.226, "Fitness for Duty/Prevention of Workplace Violence"](#)  
[Policy 103.228, "General Harassment"](#)  
[Policy 103.229, "Integrated Conflict Management System"](#)  
[Policy 103.230, "Code of Ethics/Conflicts of Interest"](#)  
[Policy 103.300, "Anti-Discrimination/Sexual Harassment"](#)  
[Policy 104.252, "Code of Conduct for Employees with Auditing, Financial Reporting, or Tax Filing Duties"](#)  
[Division Directive 107.009, "Professional Code of Conduct"](#)  
[Minnesota Management and Budget, Administrative Procedure 1.2, "Harassment Prohibited"](#)

**SUPERSESSON:** Policy 103.220, "Personal Conduct of Employees," 2/1/11. All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

**ATTACHMENTS:** None

/s/

David Crist, Deputy Commissioner  
Facility Services

Chris Bray, Deputy Commissioner  
Community Services



## Minnesota Department of Corrections

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<b>Policy:</b>	103.226	<b>Title:</b> Fitness for Duty
<b>Issue Date:</b>	7/2/13	
<b>Effective Date:</b>	7/2/13	

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**AUTHORITY:** [Americans with Disabilities Act \(ADA\) at 42 U.S.C. § 12112\(d\)\(4\)\(B\)](#)  
[Minnesota Human Rights Act \(MHRA\)](#)

**PURPOSE:** To establish a procedure for maintaining the safety and security of the workplace by ensuring all employees are able to safely and effectively perform essential job functions.

**APPLICABILITY:** All Department of Corrections (department) employees

**POLICY:** In order to ensure a safe and secure work environment for all employees, if at any time the Appointing Authority has reasonable belief that an employee(s) is not fit to perform their duties safely and constitute a hazard to themselves, co-workers or the public, the Appointing Authority may remove an employee(s) from the workplace and/or not allow an employee(s) to return to the workplace until concern for the safety and security risks have been acceptably reduced or eliminated.

These procedures are established for requiring a current employee to participate in a job related and consistent with business necessity medical examination to determine fitness for duty when the Appointing Authority has a reasonable belief, based upon objective evidence, that (1) an employee's ability to perform essential job functions will be impaired by a medical condition; or (2) an employee will pose a direct threat due to a medical condition. The required medical examination will not be materially broader or more intrusive than reasonably necessary.

### **DEFINITIONS:**

Appointing Authority - for purposes of this policy only, the Appointing Authority at department correctional facilities are the warden/superintendent/designee; field services offices Appointing Authority is the Field Services Director/designee; and the Appointing Authority for Central Office are the deputy commissioners/assistant commissioners/designee.

Direct threat - a significant risk of substantial harm that cannot be eliminated or reduced by reasonable accommodation. Direct threat determinations must be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job, considering a reasonable medical judgment relying on the most current medical knowledge and/or best available objective evidence. To determine whether an employee poses a direct threat, the following factors should be considered: (1) the nature and severity of the potential harm; (2) the likelihood that potential harm will occur; (3) the imminence of the potential harm; and (4) the duration of the risk.

Essential functions - the fundamental job duties of the employment position that the individual holds. A job function may be considered essential for any of several reasons, including but not limited to the following: (1) the function may be essential because the reason the position exists is to perform that function; (2) the function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed; and/or (3) the function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

Medical examination - a procedure or test usually given by a health care professional or in a medical setting that seeks information about an individual's physical, mental impairments, and/or health.



Unauthorized drug and alcohol use is not deemed a medical exam under this policy – refer to Policy 103.215, “Alcohol and Other Drug Use.”

**PROCEDURES:**

If the Appointing Authority guided by the concern for the safety and security of the workplace has a reasonable belief, based upon objective evidence, that (1) an employee’s ability to perform essential job functions will be impaired by a medical condition; or (2) an employee will pose a direct threat due to a medical condition, the Appointing Authority may require the employee to participate in a medical examination for the purposes of establishing fitness for duty.

The Appointing Authority will follow the procedures defined herein as well as other policies that apply to the specific situation. The Appointing Authority may consult with Human Resources and Legal Services in going through the following steps to determine the need for a medical examination and to ensure the examination will not be broader or more intrusive than reasonably necessary:

A. Step 1 Documentation

In preparation for consultation with a department contracted medical professional for a preliminary opinion on the need for a medical examination the following information should be prepared, fully considered, and discussed with the Appointing Authority:

1. Document a general description of employee’s problematic conduct (pattern of conduct or an episode of egregious behavior) including collecting supporting documentation of the incident, conduct or behavior) and articulate how it may impact the safety and security of the workplace.
2. Articulate any basis to believe the employee’s problematic conduct or episode of egregious behavior is related to a medical condition (as opposed to performance issues) (attach any supporting documentation).
3. Describe essential functions of the employee’s job. (Reference relevant documents such as position descriptions, post orders, etc.)
4. Articulate whether the employee has been disciplined in the past for performance problems or identified conduct that is problematic.
5. Articulate any basis to believe the employee will be a “direct threat” due to the perceived medical condition.
6. Articulate if there is a less intrusive alternative to medical examination.
7. Articulate whether the employee had/has requested any reasonable accommodation for the perceived medical condition.
8. Articulate if any “reasonable accommodations” were considered to remedy the problematic conduct (regardless of whether the employee requested the reasonable accommodation) such as reassignment to light post or other alternative duties.
9. Articulate whether the employee will directly consent to participating in a medical examination as a fitness for duty?

B. Step 2 Consultation with Medical Expert

The Appointment Authority should consult with a department contracted medical professional



regarding the problematic conduct for a preliminary opinion on the perceived medical condition and the need for medical examination to determine fitness for duty.

C. Step 3 Notification of Employee

If the Appointing Authority determines a Fitness for Duty evaluation is appropriate, the Appointing Authority or designee will meet with the employee to explain the process for fitness for duty examination.

Human Resources staff will arrange for the evaluation to take place with a physician contracted by the department under the annual plan.

1. A referral will be provided to the employee in writing stating the full reason for said referral.
2. Compensation will be addressed in accord with provisions of the applicable bargaining agreement.

D. Step 4 Employee Assistance Program

The supervisor may provide the employee with information regarding Employee Assistance Program (EAP) as appropriate.

E. Step 5 Results of Medical Examination

The results of the medical examination should be released to the Appointing Authority by the physician contracted by the department through a pre-signed employee release of information and waiver of patient/doctor privilege.

If treatment is recommended/required by the department contracted physician, the supervisor will instruct the employee to follow-up with his/her private physician.

Final results or treatment progress from the employee's private physician will be provided by the employee through a pre-signed employee release of information and waiver of patient/doctor privilege to the Appointing Authority and if requested by the Appointing Authority may be reviewed by the department contract physician. The department contract physician will review the information and provide the Appointing Authority with a return to work recommendation if requested.

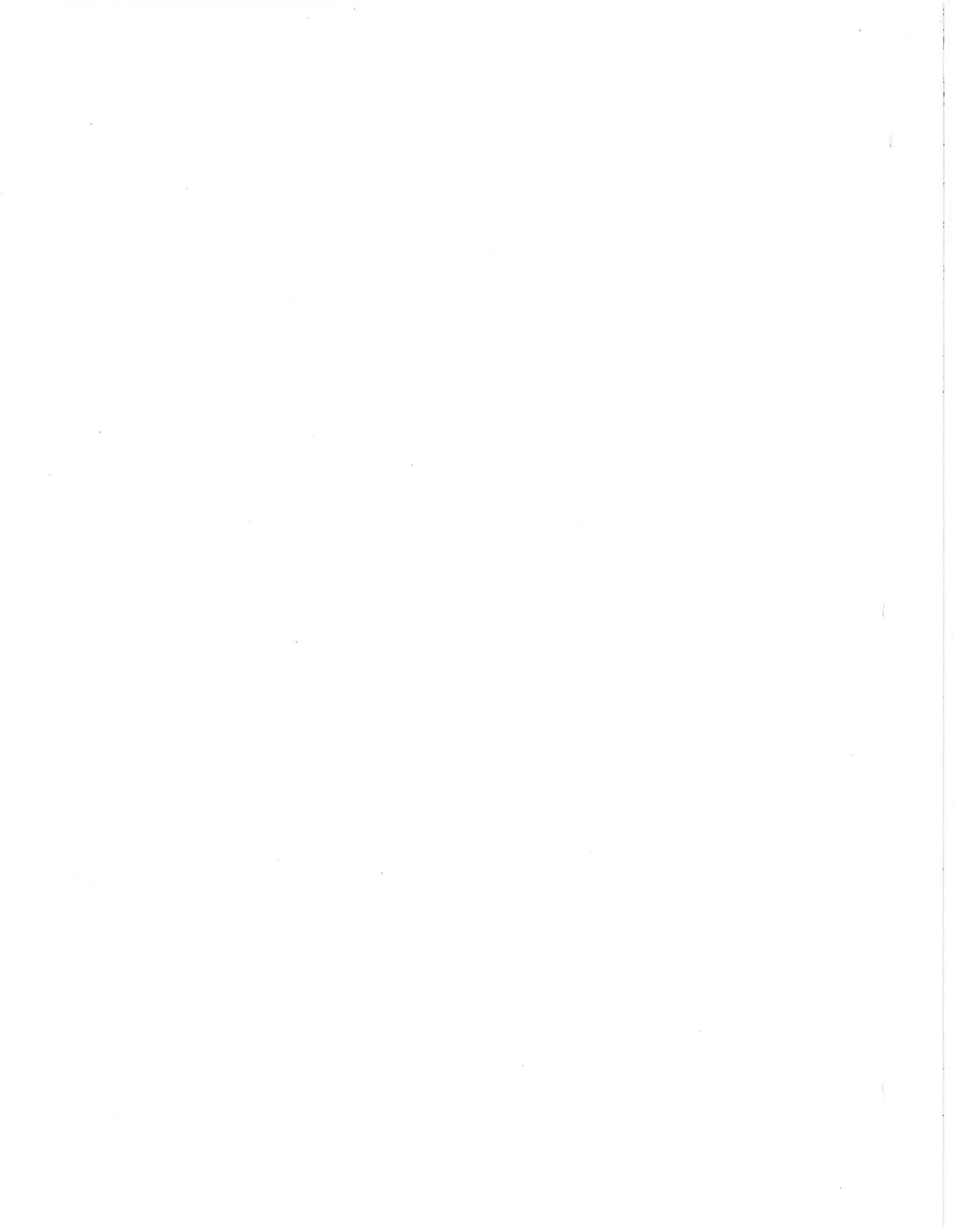
The Appointing Authority, based upon all the available information and guided by the concern for the safety and security of the workplace, will determine when and under what conditions the employee may return to the workplace

F. Step 6 Return to Work/Reasonable Accommodation Options

See policy 103.240, "Return to Work" and policy 103.310, "Reasonable Accommodation."

**REVIEW:** Annually

**REFERENCES:** [Minnesota Human Rights Act \(MHRA\)](#)  
[Policy 103.0141, "Employees Who Are the Subject of Criminal Investigation, Arrest, and/or Conviction."](#)  
[Policy 103.240, "Return to Work Program."](#)  
[Policy 103.310, "Reasonable Accommodation."](#)  
[Policy 103.227, "Prohibition of Workplace Violence."](#)



Policy 103.215, "Alcohol and Other Drug Use."

**SUPPRESSION:** Policy 103.226, "Fitness for Duty/Prevention of Workplace Violence," 11/3/09. All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

**ATTACHMENTS:** None

/s/

Deputy Commissioner, Facility Services

Deputy Commissioner, Community Services