



| Fitness for Duty | |
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| Responsible Official: Chief Operating Officer | Responsible Office: Human Resources |

Policy Purpose

The purpose of this policy is to provide a method for determining fitness for duty using sound management and Human Resources principles and a humanitarian and compassionate approach to assisting employees.

Policy Statement

I. Scope and Applicability

A. Scope

1. This policy and procedure covers all regular full-time and part-time faculty, administrative/professional, and support staff employees.
2. This policy and procedure does not apply to temporary employees.

B. Employee Responsibilities

1. Employees are expected to perform their work duties safely and competently.
2. Employees are responsible for notifying their supervisors when they are not fit for duty.
3. Costs associated with a fitness for duty evaluation and any subsequent treatment are the employee's responsibility.

C. Employer Responsibilities

1. The university may refer employees to the university's Employee Assistance Program (EAP) or for a fitness for duty evaluation when:
 - a. An employee is having observable difficulties in performing work duties and the performance and/or behavioral issues demonstrate the employee is not physically and/or mentally ready to perform the essential functions of their job; or
 - b. An employee is posing an imminent and serious safety threat to self or others.
2. The university will not charge leave time for initial EAP appointments if supervisors are notified of appointments.

3. Any document containing medical information about employees is considered confidential to the extent permitted by law. The university will maintain medical records in a file separate from employees' official personnel records.

Authority: Americans with Disabilities Act, as amended; Drug-Free Workplace Act of 1988

Definitions

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| Coordinating Team | Representatives from the appropriate university offices including but not limited to Human Resources, the Office of the Provost, the Office of University Compliance, and Disability Services responsible for reviewing, coordinating, and facilitating fitness for duty evaluations. |
| Employee Assistance Program (EAP) | No-cost consultation, self-help resources, and referral for employees and their eligible family members who are experiencing personal challenges, which are likely to have an impact upon work performance and/or personal well-being. All full-time and part-time employees eligible to participate in the State of Tennessee insurance program and their eligible family members may participate regardless of whether they participate in the State's Group Insurance Program. EAP services are offered at no cost to employees and to eligible family members. |
| Fitness for Duty | Ability to safely and effectively perform the essential functions of the employee's job with or without reasonable accommodations. |
| Fitness for Duty Evaluation | Evaluation performed by an impartial, independent doctor of medicine or osteopathy, dentist, podiatrist, clinical psychologist/psychiatrist, optometrist, nurse practitioner, or a licensed clinical social worker authorized to practice in the state of Tennessee or in the state the employee resides. The evaluation may include a health history, physical, and/or psychological examinations, alcohol and/or drug testing, or other required medical tests or studies. A fitness for duty evaluation is limited to job-related inquires and must be consistent with business necessity. |
| Supervisor | For purposes of this policy, supervisor means a chair, dean, director, provost, vice president, or any other supervisor or individual holding a supervisory title or capacity. |

Policy History

Effective Date: 9/1/2020
 Revision Date:

Procedure (s)

A. General

1. An employee who is aware of a personal need for assistance may always voluntarily approach their supervisor to seek assistance.
2. A supervisor may initiate a fitness for duty evaluation and/or EAP referral.
3. An employee who is aware of another employee's need for assistance may approach their supervisor to express concerns. If a supervisor determines that the concerns have merit, they initiate a fitness for duty evaluation and/or EAP referral.
4. If a supervisor has reason to believe an employee is not fit for duty, the supervisor reviews the Observed Behavior Summary Form to document concerns and behaviors and to help determine whether to consult Human Resources. If circumstances allow, prior to consulting with Human Resources, the supervisor sets up an informal meeting with the employee to discuss the perceived concerns.
5. If unresolved following the informal meeting with the employee, the supervisor consults a Human Resources representative before submitting a fitness for duty referral.
6. After consultation with the Human Resources representative, if appropriate, the supervisor sends a memorandum specifying any incidents and/or behaviors that are affecting the employee's performance or workplace duties and the Observed Behavior Summary Form to the Office of Human Resources through the proper signatory chain to request a fitness for duty evaluation, EAP referral, or both.

B. Coordinating Team and Employee Responsibilities

1. Human Resources reviews the request with the Coordinating Team to determine the appropriateness of a fitness for duty evaluation. The supervisor's memorandum, the Observed Behavior Summary Form, a current job description, leave records, and other pertinent information will be reviewed.
2. If the Coordinating Team approves the request, the employee is immediately notified of the request, the need to participate, the need to sign any necessary documents and releases necessary for the evaluation.
 - a. Human Resources forwards a request and certification for a medical fitness for duty examination to an appropriate healthcare provider as determined by the Coordinating Team.
 - b. The healthcare provider cannot have a potential or perceived conflict of interest with the university's request to evaluate.
 - c. It is the employee's responsibility to schedule an appointment with an appropriate provider; failure to do so may lead to progressive disciplinary action.
 - d. Non-compliance with a request for a fitness for duty evaluation may constitute insubordination and may be cause for disciplinary action.

3. The employee referred for a fitness for duty evaluation may be relieved of duties and placed on paid administrative leave:
 - a. Immediately;
 - b. At any phase of the fitness for duty process; or
 - c. Pending completion of the evaluation.
4. The healthcare provider conducts the fitness for duty evaluation and returns the findings to Human Resources and to the employee.
5. Employees may request a second evaluation at their own expense if they are unsatisfied with the initial evaluation findings.
 - a. Employees' second evaluation must be completed within 21 calendar days of receiving the findings of the initial evaluation.
 - b. If a second evaluation is sought by the employee or other medically related information is made available, that evaluation and/or medically related information is sent to Human Resources and the employee.

C. Final Determinations

1. The Coordinating Team makes the final determination of an employee's fitness for duty. Human Resources notifies the employee and the direct supervisor of the Coordinating Team's final determination.
2. If an employee returns to work or continues employment:
 - a. Continued employment may be conditioned on the employee's compliance with subsequent treatment, counseling, therapies, or other requirements established by a healthcare provider.
 - b. An employee may request any disability-related accommodations through Disability Services.
 - c. Information available to the employee's work unit is limited to whether the employee is fit to resume job duties and whether the employee has specific reasonable accommodations.
3. If it is determined an employee is not fit for duty, the employee works with Human Resources to determine appropriate options, including:
 - a. Annual leave;
 - b. Sick leave;

- c. Sick leave bank;
 - d. Family Medical Leave;
 - e. Medical leave;
 - f. Retirement;
 - g. Disability retirement; or
 - h. Resignation.
 - i. If expiration of tenure is appropriate, the formal process for expiration of tenure will be initiated.
4. The university may terminate an employee based on a fitness for duty evaluation and other relevant information and factors that support a determination that the employee is not and will not in the future be able to safely or competently perform their job.

Procedure History

Effective Date: 9/1/2020

Revision Date:

Related Form(s)

Observed Behavior Summary Form

Scope and Applicability

Primary: Employment