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4.513 Medical Examinations and Fitness for Duty

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ANTIOCH UNIVERSITY

<div>Type of Policy <input checked="" type="checkbox"/> University <input type="checkbox"/> <i>Campus</i> <input type="checkbox"/> <i>Department/Unit</i> <input type="checkbox"/> Interim</div>		Medical Examinations and Fitness for Duty Policy 4.513	
Human Resource Policies		Effective date: February 22, 2012	
Policy History:	Approved by:	Resolution #	Date:
Approved	Chancellor	N/A	February 22, 2012
Revised (Non-substantive)	Office of University Counsel	N/A	May 17, 2017
Responsible Office:	Responsible Administrator:	Contact information:	Applies to:
Office of Human Resources	Director of University Human Resources	937-769-1351	All Employees

I. INTRODUCTION AND PURPOSE

Antioch University (“AU” or the “University”) is committed to providing a safe work environment and protecting the health and safety of students, employees and visitors. In order to provide a safe work environment, employees must be able to perform the essential duties of their job in a safe, productive, and effective manner, and remain able to do so throughout the entire time they are working. Employees who are not fit for duty may present a safety hazard to themselves, to students, to other employees, to the University, or to the public.

The purpose of this policy is to establish the procedures by which the University evaluates an employee’s fitness for duty when an employee’s fitness is questioned.

II. WHEN A FITNESS FOR DUTY EXAM MAY BE REQUESTED

In an effort to provide a safe and productive environment that is conducive to academic and administrative pursuits, AU may require employees to submit to a “fitness for duty” evaluation if there is reason to believe the individual may not be able to perform the essential duties of the position.

Although this is not an exhaustive list, examples of when a Fitness for Duty exam may be required include:

- When an employee exhibits signs of impairment on the job such as slurred or incoherent speech, lack of coordination, impaired sense of space or time, accidental falls or injuries, and so on.
- When the employee states that he or she is unable to perform certain functions of a position
- When the employee is having observable difficulty performing his/her work duties in a safe and efficient manner for the employee and his/her co-workers
- When the employee is posing an imminent and serious safety threat to the employee's self or others
- When the employee has been off work on a medical leave of absence and requires medical clearance to return to work
- When the employee's healthcare provider provides insufficient information regarding the employee's condition to enable AU to determine the appropriate return to work status.

II. DEFINITIONS

A. Fitness for Duty. "Fitness for Duty" means the employee's physical and mental ability to perform the essential duties of the job in a safe, productive, and effective manner as determined by the supervisor. All employees must be free of alcohol or illegal drugs and must not be impaired during working hours. In addition, the use of prescription medications may impair an employee's ability to work or participate safely in University activities which could affect the employee's fitness for duty.

B. Fitness for Duty Evaluation. A "fitness for duty evaluation" may include an assessment by a general healthcare provider or specialist selected by AU, an assessment by the employee's own healthcare provider responsive to AU's specific questions, testing for chemical substances (*e.g.*, alcohol and drug levels), referral for psychiatric evaluation, and/or other evaluation or follow-up as deemed necessary.

A fitness for duty evaluation will not be conducted for purposes of diagnosis or treatment, but rather for purposes of determining the employee's ability to perform the essential functions of the job. AU will provide the evaluator (directly or through the employee) with a description of the essential job duties for the position and any other pertinent information or questions, prior to the evaluation.

C. Employee. For purposes of this policy an "employee" means all faculty, staff and administrators employed by the University in any capacity, whether working full-time, part-time or on a temporary basis.

D. Triggering Event. A "triggering event" occurs when a supervisor directly observes or receives a reliable report of an employee's possible lack of fitness for duty. Actions or observations that may trigger the need to evaluate an employee's fitness for duty include, but are not limited to, the following: an employee's self-reports; apparent problems with manual dexterity; coordination; alertness; speech; vision acuity; concentration; inappropriate

reactions or responses to criticism; inappropriate interactions with co-workers, supervisors, or students; suicidal or threatening statements; change in personal hygiene; memory loss; odor of alcohol or marijuana; and/or other evidence of drug use or alcohol abuse.

E. Reliable Report. A “reliable report” includes self-disclosure or a third-party opinion about an employee’s possible lack of fitness for duty. When a supervisor requests a fitness for duty exam, based on a reliable report, rather than direct observation, the Director of the Office of Human Resources (“HR”) will assess the report and determine if it is reasonable considering such factors as the relationship of the reporter to the employee, the seriousness of the employee’s condition, the possible motivation of the reporter and how the reporter learned the information.

F. Working Hours. An employee’s working hours include all time that the employee spends performing work for the benefit of the University, as well as any time an employee is on-call. In most cases, working hours are the starting and ending times of the employee’s shift, regardless of whether the employee is an hourly or salaried employee. However, working time also includes the employee’s attendance at any AU activity or function, whether it occurs on or outside the University’s premises.

III. FITNESS FOR DUTY EXAM PROCEDURES

A. The role of the supervisor. When a supervisor receives reliable information that an employee may be unfit for duty, or personally observes that an employee may be unfit for duty, the supervisor will:

1. Document the information or observations as soon as practicable, but ordinarily no more than 24 hours after observing the behavior or receiving the report. A form for this purpose is included in this policy.
2. Assess the magnitude of the risk and determine whether or not the employee should be referred for a fitness for duty exam.
 - a. Determination by a supervisor to refer an employee for a fitness for duty evaluation, must involve consultation with HR unless the nature of the situation dictates immediate attention.
 - b. In the event of an emergency or imminent threat of violence, the supervisor should contact campus Provost’s office, 911, or other appropriate authority.
 - c. If the employee is exhibiting signs of impairment, arrange for the employee’s safe transportation home or to a medical facility as the situation warrants.
3. Work in conjunction with HR to conduct any additional investigation or follow-up, such as presenting the information or observations to the employee in order to validate them and to allow the employee to explain his or her actions or correct any mistakes of fact prior to the evaluation.

B. The role of Human Resources. Upon receiving a fitness for duty referral from the Supervisor, HR will:

1. Review the circumstances that led to the referral for an evaluation.
2. Conduct any additional investigation or follow-up, as deemed necessary.
3. Determine whether or not a fitness for duty evaluation is recommended.
 - a. If an evaluation is recommended, select the health care professional who will perform the evaluation. In some cases, it will be the employee's treating physician, counselor, or etc. In other cases, AU will select an appropriate provider.
 - b. If an evaluation is not recommended, work with the supervisor to determine next steps, including appropriate disciplinary action for misconduct, if warranted.
4. Prepare, or require the preparation of, the paperwork to be used as part of the evaluation. This may include, but is not limited to, a copy of the employee's job description, performance evaluations, a description of the observed or reported behavior that led to the referral, and preparation of specific questions regarding the employee's condition as it relates to the job.
5. Notify the employee, preferably in writing, that a fitness for duty evaluation has been scheduled with a provider of AU's choosing, or that the employee is required to schedule a fitness for duty evaluation with his or her own healthcare provider.
6. Review the results of the evaluation and determine what, if any, action is appropriate.
 - a. If the health care professional concludes that the employee is unable to perform the essential functions of his/her job, HR may work with the employee and the supervisor to determine if there is a reasonable accommodation that will allow the employee to continue working.
 - b. If no appropriate accommodation can be made, HR will work with the employee and the department to review the employee's options (for example, medical leave, reassignment, or termination).

Reassignment will only be considered if there is an available position to which the employee may be qualified at the time the employee's options are being considered. Nothing in this policy gives the employee a right to an alternative position.

In addition, AU is not required to provide light duty or modified duty work to employees who cannot otherwise meet all the essential requirements of their job.

IV. EMPLOYEE RESPONSIBILITIES

A. Report to work fit for duty.

1. Employees are expected to work only when they can safely and effectively perform their essential job duties without undue risk of injury to themselves or others. When that is not possible due to serious health conditions or disabilities, the employee is expected to report the need for leave or other accommodation to the supervisor. (See Reasonable Accommodation, Policy 4.107). Again, it is the employee's responsibility to keep the supervisor apprised of the need for leave or accommodations and to specifically indicate the nature of the accommodation sought.

2. Employees are expected to consult with their supervisor if they are having difficulty performing their job duties.

B. Make Reliable Reports When Appropriate. Employees are responsible for notifying their supervisor when they observe a co-worker acting in a manner that indicates the co-worker may be unfit for duty. If the supervisor's behavior is the focus of concern, the employee may inform an administrator or contact Human Resources.

C. Cooperate with the Evaluation.

1. Employees are expected to cooperate with AU when they are asked to submit to a fitness for duty exam. This includes arriving for the scheduled appointment with any required paperwork, signing any necessary release or consent forms, and communicating with the supervisor and HR regarding the employee's ability to return to work.
2. Employees referred for a fitness for duty evaluation will typically be relieved of their job duties pending completion of the evaluation.
3. An employee or applicant who refuses to submit to a fitness for duty evaluation as required by AU and/or to provide a medical certification of fitness for duty from his or her treating physician may be subject to removal or termination from employment.

D. Follow All AU Policies and Work Rules. All employees are expected to follow AU's workplace rules and Code of Conduct. In any situation involving misconduct, disciplinary action may occur, even if the cause of the misconduct can be attributed (directly or indirectly) to the physical or mental condition of the employee.

V. EMPLOYEE RIGHTS

- A. Cost of Exams.** Employees are responsible for the cost of a fitness for duty exam, evaluation, or return to work release, when the employee is being seen by his or her own treating physician or health care provider. Office visits for this purpose should be processed through the employee's health insurance carrier.

However, in the event that AU sends the employee to a health care provider of AU's choosing, AU will pay the cost of the exam.

- B. Non-discrimination.** This policy will be administered without regard to race, color, sex, religion, national origin, age, disability, sexual orientation, gender identity, genetic information, or any other protected classification as defined by applicable state and federal laws.

AU will provide reasonable accommodations for otherwise qualified individuals with disabilities in accordance with the Americans with Disabilities Act of 1993, as amended.

- C. Confidentiality.** Results of the fitness for duty exam, including any reports, notes, or diagnostic information provided by the healthcare provider are confidential medical documents and will be kept only in the employee's medical file. Medical documentation is shared only with those with a legitimate reason to know on a "need to know" basis. To the extent possible, AU will protect the confidentiality of the employee's fitness for duty evaluation and the results.

However, where the employee has placed at issue his or her medical history, mental or physical condition, or active treatments, relevant information may be used and disclosed by the University in connection with such proceedings.

- D. Employment Status.** An employee's pay and employment status while the employee's fitness for duty is being determined will be assessed on a case-by-case basis, in accordance with University policy and practice and compliance with any applicable collective bargaining agreement.

VI. ENFORCEMENT AND ADDITIONAL INFORMATION

- A.** AU will make the final determination of the employee's fitness for duty status.
- B.** Employees violating this policy or refusing to comply with AU's reasonable requests will be subject to disciplinary action, up to and including termination.
- C.** Employees with questions about this policy should contact Human Resources for assistance.

Policy Cross References

Post Offer Pre-employment Medical Examination	Policy # 4.105
Reasonable Accommodation	Policy # 4.107
Drug-Free Workplace	Policy # 4.505