

	P - §22	Policy Name: Fitness for Duty	Current Version Approved:
	Prepared By: Human Resources		Adopted: August 4, 1993
	Amended:		

A. PURPOSE

The purpose of the policy is to ensure that employees are physically and mentally capable of performing the essential functions of their positions, with or without reasonable accommodations as mandated by the Americans with Disabilities Act.

B. DEFINITIONS

Americans with Disabilities Act – civil rights law enacted in 1990, and amended in 2008, that prohibits discrimination based on person’s disability.

Fit for Duty (FFD) - possessing the physical, emotional, and psychological capability to safely and effectively perform the essential functions of the job, with or without reasonable accommodation, in a manner that does not present a direct threat of harm to self or others.

Health Care Provider (HCP) – a licensed medical care provider or any other person determined by the U.S. Secretary of Labor to be capable of providing healthcare service.

C. ROLES AND RESPONSIBILITIES

Employees:

- a. Performing essential functions of their position in a safe and effective manner, with or without reasonable accommodations during the entire time at work;
- b. Notifying a supervisor when they are no longer fit for duty due to injury, illness, or medical condition;
- c. Notifying a supervisor when a coworker is observed acting in a manner that indicates the coworker may not be fit for duty; and
- d. Providing relevant medical documentation to the Human Resources Department when a health care provider has determined a changed in the ability to perform the essential functions of their position.

Supervisors:

- a. Observing the attendance, performance, and behavior of the employees under their supervision;
- b. Notifying Human Resources when an employee is exhibiting behavior that suggests they may not be fit for duty;
- c. Maintaining the confidentiality of an employee's medical information; and
- d. Implementing any reasonable accommodation deemed necessary.

Human Resources:

- a. Soliciting information from the supervisor regarding employee behaviors or performance and from the employee regarding any relevant previous or current medical or psychological treatment information;
- b. Coordinating a Fit for Duty Assessment, as necessary;
- c. Communicating the results to the employee if not done so by the health care provider;
- d. Discussing recommendations and subsequent accommodations with the supervisor; and
- e. Communicating with the employee as to their rights, responsibilities, and employment status.

D. POLICY

This policy outlines the responsible parties and necessary actions when an employee's fitness for duty (FFD) is in question, the steps necessary to assess the employee's physical or mental capabilities, necessary follow-up, and return to work requirements.

- a. All employees will be informed of the minimum responsibility to maintain their physical, mental, and emotional health (including free of the effects of alcohol and drugs) to a degree required to carry out their responsibilities as employees. An employee shall not be allowed to work unless the employee is able to safely perform the essential job functions, with or without reasonable accommodation.
- b. All County job descriptions will clearly state the minimum physical and emotional health requirements of the position. Employees are responsible for familiarizing themselves with these requirements.
- c. If a supervisor suspects that an employee is not fit for duty, i.e., is unable to effectively perform their responsibilities due to physical or emotional health problems, the supervisor must refer the employee to the Human Resources Department to arrange a fitness for duty

evaluation. The evaluation will be conducted at County's expense and the employee will be paid their regular rate of pay during the evaluation.

- d. Before initiating a fitness for duty evaluation, the employee's supervisor will meet with Human Resources (HR) to discuss the observed behavior/circumstance that has caused concern about the employee's fitness for duty. HR will determine the appropriateness of a fitness for duty evaluation. The employee will also be given the opportunity to provide any relevant medical or psychological treatment information.
- e. The Fitness for Duty evaluation can be conducted by the employee's own health care provider if the employee is currently receiving care. However, the County has the right to require the evaluation be conducted by an independent licensed healthcare professional at the County's expense. **A fitness-for-duty evaluation must be job-related and consistent with business necessity under the Americans with Disabilities Act (ADA).**
- f. To the extent allowed by law, the County will protect the confidentiality of the evaluation and the results.
- g. Employees may be placed on paid administrative leave while waiting for the results of the fitness for duty exam.
- h. Non-compliance with a request for a Fitness for Duty evaluation shall be cause for disciplinary actions up to and including dismissal.
- i. The employee's satisfactory work performance is the basis for continued employment. Participation in a treatment or rehabilitation program does not guarantee continued employment and will not prevent disciplinary action for violation of County policies or regulations. An employee must comply with all treatment recommendations resulting from a fitness for duty evaluation.
- j. If the fitness for duty evaluation indicates that the employee is capable of performing the essential job functions by receiving medical treatment, it shall remain the responsibility of the employee to undergo the treatment. Failure to do so may result in dismissal from employment.
- k. When an employee returns to work after hospitalization or prolonged absence for health reasons, the County may require fitness for duty evaluation prior to resuming regular work activities.

E. RESOURCES

Americans with Disabilities Act of 1990, 42 U.S.C. §12101, as amended.

Code of Virginia § 22.1-301, as amended. Cost of medical examinations and of furnishing medical records.