

DIVISION: Law School/Human Resources	
SUBJECT: Fitness for Duty	Page 1 of 2
Policy Number:	Supersedes: NONE
Effective Date: 04/23/10	Previously Issued: N/A

1. STATEMENT OF POLICY:

The Law School endeavors to provide a safe and productive work environment for the benefit of all members of the Law School community. Faculty and staff members are expected to manage their health and wellness in such a way that they can safely and effectively perform essential job functions. The Law School may require professional evaluation of a faculty or staff member's physical or mental capabilities to determine his/her ability to perform essential job responsibilities. All actions taken pursuant to this policy will comply with federal and state laws, as well as Law School policies and procedures.

2. POLICIES/PROCEDURES:

Policy

If, by observation of a faculty or staff member's behavior or by receipt of reliable information, management has reason to believe that a faculty or staff member is unable to perform his/her essential job responsibilities without endangering the health or safety of self or others or for other reasons permitted by law, and/or if and when the faculty or staff member has the appearance of being under the influence of alcohol or a controlled substance, the Law School may require a faculty or staff member to undergo a fitness for duty evaluation, which may include a test for the presence of alcohol and/or illegal drugs.

Fitness for duty evaluations are conducted by an independent, third-party, licensed health care professional. All costs of a fitness for duty evaluation performed pursuant to this policy will be paid for by the Law School. To the extent possible, the Law School will protect the confidentiality of the evaluation and results and will share information only with individuals who have a legitimate business reason to know.

The fitness for duty evaluation process set forth in this policy is only for those situations where reliable observation indicates that the faculty or staff member may not be physically or mentally able to perform the essential functions of his/her position or where reasonable suspicion exists that a faculty or staff member is under the influence of alcohol or a controlled substance. This policy does not govern medical certifications or releases required when a faculty staff member takes a leave of absence. For information regarding such certifications or releases, please see the appropriate Law School leave policy.

Procedure

Where management has reason to believe that a faculty or staff member is unable to perform his/her essential job responsibilities without endangering the health or safety of self or others or for other reasons permitted by law, and/or where there is reasonable suspicion that the faculty or staff member is

under the influence of alcohol and/or a controlled substance, the manager will discuss his/her concerns and the reason for them with Human Resources prior to discussing the concerns with the faculty or staff member. The manager and HR or other witness will meet with the faculty or staff member, prior to requesting that the staff member undergo a fitness for duty evaluation, and offer the faculty or staff member an opportunity to give a reasonable explanation.

If the faculty or staff member is unable to offer an adequate and reasonable explanation for his/her behavior, he/she may be asked to undergo a fitness for duty evaluation, which may include a test for the presence of alcohol and/or illegal drugs. The appropriate Senior Vice President will be informed when fitness for duty testing, including testing for the presence of alcohol and/or illegal drugs, is requested.

The faculty or staff member will be requested to sign a voluntary written authorization allowing the health care professional to release certain information obtained through the evaluation to the Law School, including the results of a test for the presence of alcohol and/or illegal drugs. The faculty or staff member is expected to comply with the request immediately, including signing the necessary consent form(s). If the faculty or staff member refuses or fails to immediately comply, he/she will be:

- Immediately suspended pending investigation
- Subject to discipline up to, and including, separation from employment, both for insubordination and failure to follow the request of a supervisor and, if appropriate, for the circumstances which led to the request for the fitness for duty.

After consultation with Human Resources, the faculty or staff member may be placed on an administrative leave immediately following the fitness for duty evaluation, with or without pay, pending review of the circumstances that led to the request for the fitness for duty evaluation and/or pending the results of the evaluation. The faculty or staff member's manager, in consultation with Human Resources, will determine the circumstances under which the faculty or staff member may, if at all, return to work. The faculty or staff member may be required to provide a certification from a health care provider indicating his/her ability to perform the essential functions of the position without risk to self or others, and to address work limitations, if any.

Questions regarding this policy should be directed to Human Resources.