



Name of Policy	Fitness for Duty (FFD) Policy
Description of Policy	This document outlines the university's policy regarding employee fitness for duty and is intended to promote a safe and healthy environment for its employees, students, and campus community.
Policy applies to	<input checked="" type="checkbox"/> University-wide <input type="checkbox"/> Specific (<i>outline location, campus, organizational unit, etc.</i>)
	<input checked="" type="checkbox"/> Faculty/Staff only <input type="checkbox"/> Students only <input type="checkbox"/> Faculty/Staff and students
Policy status	<input checked="" type="checkbox"/> New policy <input type="checkbox"/> Revision of existing policy

Approval authority	Senior Vice President for Finance, Administrative Services & Operations/CFO
Governing authority	Senior Vice President for Finance, Administrative Services & Operations/CFO
Responsible officer	Chief Human Resources Officer

Approval date	February 22, 2021
Effective date	February 22, 2021
Approval date of last revision	
Effective date of last revision	
Date of policy review*	

**unless otherwise indicated, this policy will still apply beyond the review date*

Related legislation, policies, procedures, guidelines and local protocols	
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Background

Commitment to the promotion of a safe and healthy environment for employees, students, visitors, and the entire campus community is critical and is only possible when each employee is able to perform his or her job duties in a safe, secure, and effective manner, and remains able to do so throughout the entire time they are working. Employees who are not fit for duty may present a safety risk for themselves and to others.

Alcorn State University is committed to maintaining a healthy campus environment, in which all employees can thrive and the mission of the university can be continually realized.

Purpose

Alcorn State University has implemented this policy in furtherance of its' commitment to and effort toward maintaining a safe and healthy workplace and campus environment. This policy outlines the responsible parties and necessary actions when an employee's fitness for duty is in question, the steps necessary to assess the employee's physical or mental capabilities, necessary-follow up, and return to work.

Scope/Application

This policy applies to all Alcorn State University employees, regardless of work location, on-site or remote.

Policy Statement and Principles

This policy covers those situations in which an employee is (1) observed to have difficulty performing his/her duties in an effective manner that is safe for the employee and/or his or her co-workers, (2) poses a serious safety threat to self or others, or (3) reported cases of concern. The policy prescribes the circumstances under which an employee may be referred to an independent, licensed health care evaluator for a Fitness for Duty (FFD) evaluation if the need of an assessment is present.

An employee shall not be allowed to work unless he/she maintains a FFD required for the safe performance of essential job functions, with or without reasonable accommodation. Each employee is required to report to work in an emotional, mental and physical condition (including free of the effects of alcohol and drugs) necessary to perform his or her job in a safe and satisfactory manner.

This policy does not apply to employees with short-term, infectious/communicable diseases (e.g. flu, colds, etc.). If an employee exhibits symptoms of an infectious/communicable disease; the supervisor may ask the employee to leave the workplace in order to have his/her symptoms evaluated by the employee's own health care provider, or by Alcorn's Health and Disability Services.

A FFD evaluation is designed to address behavioural changes in an employee that may pose a potential threat to self or others in the workplace, as well as his or her ability to perform the essential functions of the employee's job. Application of this policy is not intended as a substitute for Alcorn State University policies or procedures related to chronic performance or behavioural problems or as a substitute for discipline. Supervisors shall continue to address performance or behavioural problems through the performance appraisal process and shall implement appropriate corrective or disciplinary action.

Alcorn State University is required to comply with federal disability law (primarily the Americans with Disabilities Act of 1990 [ADA]). In general, the ADA prohibits: (1) employers from requiring an employee to submit to a medical examination; and (2) employer inquiries into whether an individual has a disability. However, the protections afforded

to employees by the ADA are not without limits. Federal law permits the EMPLOYER to require a medical examination of an employee if the requirement for the examination is job-related, consistent with business necessity, and if the EMPLOYER has a reasonable belief that:

- (1) The employee's ability to perform essential job functions may be impaired by a medical condition; or
- (2) An employee may pose a direct threat (i.e. significant risk of substantial harm to the health and safety of self or others) due to a medical condition.

1. **Fitness for Duty Requirements:**

An employee is expected to perform essential job functions in a safe and effective manner, and to discuss with his/her supervisor any circumstances that may impact his/her ability to do so. Alcorn State University may require professional evaluation of an employee's physical, emotional or mental capacities to determine his or her ability to perform essential job functions. Such evaluations are conducted by an independent, licensed health care professional and are undertaken only after review by the Coordinating Team. Alcorn State University is responsible for the cost of such evaluation(s). To the extent allowed by law, Alcorn State University shall protect the confidentiality of the evaluation and the results.

Non-compliance with a request for a fitness evaluation shall be cause for appropriate disciplinary action, up to and including possible termination of employment.

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 may not necessarily prevent disciplinary action for violation of Alcorn State University policies. An employee must comply with all treatment recommendations resulting from a FFD evaluation to be allowed to return to work. During this time, applicable leave policies shall apply. Temporary employees, or other wage employees referred for an evaluation will be prohibited from working or appearing for work until an evaluation is completed and the employee has been approved to return to work (Compensation during this time shall be discontinued).

2. **Coordinating Team:**

Before initiating an evaluation, the Coordinating Team (consisting of the Chief Human Resources Officer, Director of Health and Disability Services, and Director of Counselling Services) shall consult with the employee's supervisor to gain a clear understanding of the behaviour/circumstances that have raised questions about the employee's fitness for duty. The Office of Human Resources Management shall also notify the employee of the opportunity to provide any relevant previous medical or psychological treatment information. The Coordinating Team shall determine the appropriateness of FFD testing within a reasonable time after notification from the supervisor, generally within three business days; and will advise the appropriate Vice President/Dean of findings.

While the employee is prohibited from appearing for work until completion of the FFD evaluation (metric used to be determined by the independent, licensed health care evaluator conducting the assessment) and approval to return to work is provided, the Coordinating Team shall use its discretion to determine whether to allow the employee to work off-site or to represent Alcorn State University in any work-related capacity.

3. **Results of the Evaluation:**

The results of FFD evaluations performed by qualified, licensed health care professionals shall be presumed to be valid. Results of the evaluation will be received by the Office of Human Resources Management. The employee shall be notified of the results of the FFD by the evaluator and/or Alcorn State University. Notification will be provided to the employee's supervisor, in compliance with Health Insurance and Accountability Act (HIPAA) requirements governing the use and disclosure of protected health information. The Office of Human Resources Management will communicate whether the employee may return to work to the employee's supervisor and the respective dean or vice president.

After the evaluation, information given to the employee's supervisor and respective dean or vice president shall be limited to whether the employee may:

- Return to full duty;
- Not return to full duty, in which case staff will be referred to the Office of Human Resources and faculty will be referred to the Office of Academic Affairs for review of employment status
- Return to full duty with reasonable accommodations to meet the evaluator's recommendations.

4. **Appeals Process:**

An employee who disagrees with the findings of the institution-assigned evaluator may appeal the determination made; and will, at his/her expense, secure the clinical opinion of a qualified evaluator. Findings of that evaluator will be considered by the university (if significantly different from initial findings). However, the final determination will be made by the university, in consultation with university legal counsel and medical director.

Should the institution have concerns about the findings of the evaluator, another qualified party may be identified and assigned to examine the employee and a determination will be made by the university in consultation with university legal counsel and medical director.

5. **Return to Work:**

In conjunction with the employee's supervisor, the Coordinating Team shall discuss whether any reasonable and necessary accommodations need to be made. Continued employment shall be contingent upon compliance with recommendations provided by the evaluator, such as periodic testing, participation in professional counseling and treatment programs. During this time, applicable leave policies and health plan benefits shall apply. In consultation with the Coordinating Team, the supervisor and employee should engage in an interactive process to determine if any reasonable accommodations (e.g. re-assignment of duties for a specific period of time, a flexible work schedule) should be implemented. Failure to comply with the recommendations or agreed upon accommodations may result in disciplinary action up to and including possible termination from employment.

6. **Confidentiality/Privacy of Fitness for Duty Evaluations:**

Under the Health Insurance Portability and Accountability Act (HIPAA), any document containing medical information about an employee is considered a medical record and is regarded as confidential. Records of fitness for duty evaluations shall be treated as confidential medical records and maintained by Alcorn State University's Office of Human Resources Management. This information may be shared only on a "need to know" basis. Employees may obtain a copy of the medical report from the Office of Human Resources Management upon written request, in accordance with university policy.

7. **Roles and Responsibilities:**

An *employee* is responsible for:

1. Performing his/her job responsibilities in a safe and effective manner, with or without reasonable accommodations during the entire time at work;
2. Notifying the supervisor when not fit for duty;
3. Notifying the supervisor when a co-worker is observed acting in a manner that indicates the co-worker may not be fit for duty;

4. Informing the upper level manager or contacting the Office of Human Resources Management for further guidance, if the supervisor's supervisor is the focus of concern;
5. Providing relevant medical and psychological information when given the opportunity to do so; and
6. Complying with this policy and any authorized request to submit to an evaluation.

A *supervisor* is responsible for:

1. Observing the attendance, performance, and behavior of the employees under his/her supervision;
2. Notifying the Office of Human Resource Management when an employee is exhibiting behavior that suggests he/she may not be fit for duty;
3. Following this policy's procedures and providing a completed *Supervisor's Observation Checklist for Fitness for Duty Concerns* Form to the Office of Human Resources Management when presented with circumstances or knowledge that indicate that an employee may not be fit for duty;
4. Removing and escorting an employee deemed not fit for duty from the worksite unless he/she poses an immediate safety threat in which case the supervisor should contact Campus Police;
 - a. Arranging transportation for the employee from the work site if necessary;
 - b. Maintaining the confidentiality of an employee's medical information; and
 - c. Implementing any reasonable accommodation deemed necessary.

The *Coordinating Team* is responsible for:

1. Soliciting information from the supervisor regarding employee behavior or performance, and from the employee regarding any relevant previous medical or psychological treatment information;
2. Identifying who will conduct the fitness for duty evaluation;
3. Receiving the results of the fitness for duty evaluation;
4. Communicating the results to the employee if not done so by the evaluator;
5. Maintaining confidentiality except as detailed above;
6. Coordinating payment for the fitness for duty evaluation;
7. Implementing any recommendations proposed by the FFD evaluation;
8. Discussing recommendations and subsequent accommodations with the supervisor; and
9. Communicating with the employee as to their rights, responsibilities and employment status

Policy Support Documentation:

The Supervisor's Observation Checklist (Attached) is to be used in conjunction with this policy Americans with Disability Act (ADA): University Policy, [https://www.alcorn.edu/uploaded/files/finadmin/POLICIES/HUMAN_RESOURCES/Americans_with_Disabilities_Act_\(ADA\).pdf](https://www.alcorn.edu/uploaded/files/finadmin/POLICIES/HUMAN_RESOURCES/Americans_with_Disabilities_Act_(ADA).pdf); Reasonable Accommodation Questionnaire, https://www.alcorn.edu/uploaded/files/finadmin/hr/REASONABLE_ACCOMMODATION_QUESTIONNAIRE.pdf; and Reasonable Accommodation Request Form https://www.alcorn.edu/uploaded/files/finadmin/hr/Reasonable_Accommodation_Request_Form.pdf; Health Insurance Portability and Insurance Information (HIPAA) Policy [https://www.alcorn.edu/uploaded/files/finadmin/POLICIES/HUMAN_RESOURCES/Health_Insurance_Portability_and_Accountability_Act_\(HIPAA\).pdf](https://www.alcorn.edu/uploaded/files/finadmin/POLICIES/HUMAN_RESOURCES/Health_Insurance_Portability_and_Accountability_Act_(HIPAA).pdf); and HIPAA Authorization Form https://www.alcorn.edu/uploaded/files/finadmin/hr/HIPAA_Authorization_Form.pdf

Review:

This policy is to be reviewed annually.

REVIEWED BY:

/s/ Wanda C. Fleming, Ph.D.

Originator

February 22, 2021

Date

/s/ Cornelius Wooten, Ph.D.

Originator

February 22, 2021

Date

/s/ Alfred L. Galtney, J.D.

Chief Compliance Officer

February 22, 2021

Date

APPROVED:

/s/ Felecia M. Nave, Ph.D.

President/IEO

February 22, 2021

Date