

	<b>FGCU POLICY 3.047</b>	<b>Responsible Unit:</b> Human Resources
	<b>Fitness for Duty</b>	

## A. POLICY STATEMENT

It is Florida Gulf Coast University’s desire to provide a healthy and safe workplace. To achieve this goal, it is necessary that Employees report to work fit to perform their jobs in a safe, secure, productive, and effective manner. Each Employee must maintain Fitness for Duty required for the safe performance of Essential Job Functions, and they will not be allowed to work unless he or she reports to work and remains in an emotional, mental, and physical condition necessary to perform his or her job in a safe and satisfactory manner during the entire time at work. Employees who are not fit for duty may present a safety hazard to themselves, to other Employees, to the University, or to the public.

## B. REASON FOR POLICY

This Policy is created to establish procedures by which the University will evaluate an Employee’s ability to safely and competently perform his or her duties subsequent to becoming aware of a health or safety situation. This Policy prescribes the circumstances under which an Employee may be referred to an independent, licensed health care evaluator for a Fitness for Duty Evaluation.

## C. APPLICABILITY AND/OR ACCOUNTABILITY

This Policy applies to out-of-unit faculty, executive service, administrative & professional (A&P), support personnel (SP), and other personal services (OPS) Employees.

## D. DEFINITION OF TERMS

1. *Employee*: Employee for purposes of this Policy means all out-of-unit faculty and staff employed by the University in any capacity, whether full- or part-time, temporary, or regular status.
2. *Essential Job Functions*: The fundamental job duties of the employment position the individual must be able to perform, with or without a reasonable accommodation.
3. *Fitness for Duty*: Possessing the physical, emotional, and mental capacities to safely and effectively perform the Essential Job Functions of his or her job, with or without a reasonable accommodation in accordance with the Americans with Disabilities Act.
4. *Fitness for Duty Evaluation*: A professional assessment of an Employee’s physical, emotional, or mental capacities, that is carried out by an independent, licensed healthcare

provider with expertise to determine if an Employee is or is not capable of effectively performing his or her Essential Job Functions without posing a threat to his or her own safety or the safety of others.

5. *Supervisor*: The person to whom they report.

## **E. PROCEDURES**

1. Each Employee is responsible for maintaining their health in such a way that the Employee can perform their Essential Job Functions with or without reasonable accommodation. These procedures prescribe the circumstances under which an Employee may be referred by Human Resources to an independent, licensed health care evaluator for a Fitness for Duty Evaluation should either of the following situations be present. An Employee is:
  - a. Having observable difficulty performing his or her duties in an effective manner that is safe for the Employee and for his or her co-workers, or
  - b. Posing a serious safety threat to self or others.
2. Supervisors are responsible for:
  - a. Observing the attendance, performance, and behavior of the Employees under his or her supervision;
  - b. Notifying Human Resources when an Employee is exhibiting behavior that suggests he or she may not be fit for duty as provided in subsection E.1. above, and whether the Employee has an approved reasonable accommodation in place;
  - c. Removing and escorting an Employee deemed not fit for duty from the worksite unless he or she poses an immediate safety threat in which case the Supervisor should call the University Police Department and arrange transportation for the Employee from the work site, if necessary; and
  - d. Maintaining the confidentiality of an Employee's personal situation.
3. The Assistant Director, Benefits, or designee, may require that an Employee submit to a Fitness for Duty Evaluation, which will require the Employee to submit to an evaluator of the University's choosing and at the University's expense. The Assistant Director, Benefits, or designee, is responsible for:
  - a. Obtaining information from the Supervisor regarding Employee behaviors or performance, and notifying the Director of the Office of Adaptive Services of the personal situation in the event the Employee has an approved reasonable accommodation;

- b. Identifying who will conduct the Fitness for Duty Evaluation;
  - c. Receiving the results of the Fitness for Duty Evaluation;
  - d. Communicating the results to the Employee if not done so by the evaluator;
  - e. Maintaining confidentiality, to the extent allowable by law;
  - f. If necessary, implementing any recommendations and subsequent accommodations with the Supervisor, in consultation with the Director of the Office of Adaptive Services, and if necessary, referring the Employee to the Employee Assistance Program (EAP); and
  - g. Communicating with the Employee as to their rights, responsibilities, and employment status.
4. A Fitness for Duty Evaluation is designed to address observable physical, emotional, or mental changes in an Employee that may pose a potential threat to self or others in the workplace, or otherwise render the Employee unable to perform the Essential Job Functions with or without reasonable accommodation. Application of this Policy is not intended as a substitute for University regulations, policies, or procedures related to chronic performance or behavioral problems or as a substitute for discipline. Supervisors shall continue to address performance or behavioral problems through the performance appraisal process and to implement appropriate corrective or disciplinary action.
5. Records, reports, and results of the Fitness for Duty Evaluation (i.e. medical information) will be maintained confidentially and separately from the Employee's official personnel file. The report is and will remain University property.
6. Time required by the Employee to complete the Fitness for Duty Evaluation is considered as University work time such that the time used to submit to the evaluation will not require the use of sick leave or other accrued leave. Time off for prescribed treatment (after the Fitness for Duty Evaluation), will be charged to accrued sick leave, compensatory leave, or annual leave, in that order. If it is determined through physician consultation that the Employee is unable to perform the Essential Job Functions of his or her position without impairment due to medication or underlying conditions, the Employee will be directed not to work, using available leave options, until able to fully perform the Essential Job Functions of their job with or without reasonable accommodation. The application of FGCU Policy 3.039, Family Medical Leave Act, may be required, if applicable.

*Related Information*

*FGCU Policy 1.008, Disability Access and Reasonable Accommodation*

*FGCU Policy 3.034, Sick Leave*

*Authority*

*BOG Regulation 1.001, University Board of Trustees Powers and Duties*

*History of Policy*

*New 03/10/16; Amended Organization Change 11/01/17; Format Changed 09/10/19*

**APPROVED:**

\*s/Wilson G. Bradshaw  
Wilson G. Bradshaw, President

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Date