

 **Fitness for Duty Procedures**

1. **Reporting Fitness for Duty Concerns**

An employee, student, or community member who observes behavior or learns information that suggests an employee is not Fit for Duty should report such behavior to that employee’s supervisor/manager. The manager or supervisor shall document the reports provided by the employee, student or community member. In addition, the manager or supervisor shall, if possible, conduct a first-hand observation of the employee and document their observations in detail including date, time, location; as well as other pertinent details that are relevant to the specific actions or behavior observed. If an employee is concerned that their own supervisor/manager is not Fit for Duty, the employee should report such behavior to the next level of supervisor or directly to [Employee Relations (“ER”)](https://hr.gatech.edu/employee-relations/).

If an employee believes they are not Fit for Duty, they should discuss their concerns with their supervisor/manager or may request to meet with the Institute’s Accommodations Manager Accommodations Manager to discuss possible ADA accommodations and/or a Benefits and Leave Consultant to discuss options for leave.

Once the supervisor or manager has determined that there is a potential Fit for Duty issue and prepared the needed documentation, the supervisor will then contact Georgia Tech Human Resources (Human Resources Business Partner or Employee Relations Consultant) for guidance on how to proceed. In situations where an employee’s behavior is an imminent threat to the safety or well-being of others or him or herself or if there is a medical emergency, the police, an ambulance, or other public safety officers shall be called to assist. In this instance, the supervisor, manager or observing witness shall contact 911 or the Georgia Tech Police Department at (404)894-2500.

1. **Requesting a Fitness for Duty Evaluation**

A Dean, Chair, Department Head, or supervisor may request a Fitness for Duty Evaluation (an “Evaluation”) when they have a reasonable belief that the employee’s ability to perform their essential job functions will be impaired by a medical condition or that the employee poses a direct threat due to a medical condition.

The Dean, Chair, Department Head, or supervisor requesting the evaluation should first consult with their Human Resources Partner (“HRBP”) and Employee Relations Consultant (“ERC”) within Georgia Tech Human Resources to discuss whether there is a reasonable belief to support the request and, if so, to draft a written request for the evaluation. After the consultation, the Dean, Chair, Department Head, or supervisor should submit a written request to the Accommodations Manager.

The written request should include the following information:

* A summary of the objective evidence supporting the reasonable belief that the employee:
* Has an impairment or medical condition preventing the performance of essential job functions; or,
* Poses a direct threat;
* The name(s) and contact information for the individual(s) providing the objective information supporting the reasonable belief;
* And, if the request is based on impairment of performance of essential job functions, a summary of the relevant essential job function(s).

The written request should be sent to the Accommodations Manager, copying the ERC. For requests based on impairment of performance, a copy of the Employee’s job description should be included.

The supervisor or manager, HRBP, Accommodations Manager, and ERC will consult with Legal and Faculty Affairs (if applicable) to make a final determination as to whether a Fitness for Duty evaluation is required, the type of evaluation needed, and the professional needed to perform the evaluation (i.e. medical professional or mental health professional).

1. **Requiring a Fitness for Duty Evaluation**

Before or after a determination that an evaluation is required, the Institute may place the employee on administrative leave for up to thirty (30) days pending the results of the evaluation, which may be extended in some circumstances.

When the evaluation is required to determine an employee’s ability to perform their essential job function(s), the Institute may, if possible and in its discretion, temporarily reassign the employee to other duties pending the results of the evaluation. A partial temporary reassignment to other duties may be combined with partial paid leave to fulfill the Employee’s FTE. The period of temporary reassignment will generally last no more than thirty (30) days but may be extended with written notice to the employee. The Institute may, in its discretion, end the temporary reassignment at any time and place the employee on paid leave.

1. **Notice to Employee**

The ERC and the employee’s supervisor will notify the employee in writing that they are required to undergo an evaluation. The written notice will include the following information:

* A summary of the employee’s conduct supporting the evaluation;
* Whether the evaluation will address the employee’s ability to perform their essential job function(s) or a potential direct threat;
* Whether the employee will be placed on administrative leave or temporarily reassigned
* If the Institute chooses the health care professional to conduct the evaluation:
	+ The name and contact information of the healthcare professional
	+ Notice that the employee may submit information from their own healthcare provider for consideration;
* The date by which the evaluation must be completed; and,
* Consequences for failure to complete the evaluation.

The employee will also be provided with a copy of the questions to be posed to the healthcare professional. These questions may be provided after the employee receives the written notice but prior to the evaluation.

Upon receipt of the written notice, the employee is required to complete a Medical Release form allowing the Accommodations Manager to speak with the health care professional conducting the evaluation. The employee is also required to complete any equivalent release required by the health care professional.

1. **Fitness for Duty Evaluation**
2. Healthcare Professional

The evaluation may be conducted by the employee’s healthcare provider or, in the Institute’s discretion, a healthcare professional of the Institute’s choice. In all cases, the evaluation must be conducted by an appropriate healthcare professional who has expertise in the employee's specific condition and can provide medical information that allows the Institute to determine the effects of the condition on the employee's ability to perform their job without posing a direct threat.

If the Institute chooses the healthcare professional, the Institute will pay all costs associated with the evaluation. If the employee’s own provider conducts the evaluation and the Institute determines that it needs additional information, the Institute may require the employee to be evaluated by a healthcare professional of the Institute’s choice. If an additional evaluation is required and results in conflicting medical information, the Institute will consider the following factors in evaluating the determination of the health care professionals:

* The area of expertise of each health care professional who has provided information;
* The kind of information each health care professional has about the essential job functions and the work environment in which they are performed;
* Whether a particular opinion is based on speculation or on current, objectively verifiable information about the risks associated with a particular condition; and
* Whether the medical opinion is contradicted by information known to or observed by the Institute (e.g., information about the employee’s actual experience in the job in question or in previous similar jobs).
1. Scope of the Evaluation

The evaluation will be limited to determining whether the employee can perform their essential job function(s) or whether they pose a direct threat. The Accommodations Manager, in consultation with the ERC, the employee’s supervisor, and other appropriate individuals, will develop written questions for the healthcare provider to address in the evaluation. The Accommodations Manager will provide these questions to the health care provider along with a copy of the employee’s job description or a statement of the employee’s essential job functions, and a description of the circumstances leading to the evaluation.

1. Results of the Evaluation

Upon completion of the evaluation, the healthcare professional will be asked to respond to the questions and to complete a Fitness for Duty Evaluation form. In the Fitness for Duty Evaluation form, the healthcare professional should select one of the following results of the evaluation:

* **Is Fit for Duty**: The employee is medically able to perform their essential job functions without accommodations, and/or the employee does not pose a direct threat.
* **Can be Fit for Duty**: The employee is medically able to perform their essential job functions with accommodations, does not pose a direct threat if provided accommodations, and/or can perform their essential job functions and/or not pose a direct threat if they satisfy other requirements.
* **Is Not Fit for Duty**: The employee is not able to perform their essential job functions with or without accommodations, and/or the employee poses a direct threat.

The responses to the questions and the Fitness for Duty Evaluation form should be submitted by the health care provider to the Accommodations Manager. The Accommodations Manager will review these evaluation results and, if necessary, consult with the healthcare professional.

1. Post-Evaluation

If the employee is Fit for Duty, the employee will be allowed to return to work within three (3) business days.

If the employee can be Fit for Duty, the employee will be referred to the Accommodations Manager to determine what reasonable accommodations can be provided under the reasonable accommodation’s process and/or to their ERC to identify other requirements needed to make the employee Fit for Duty. The employee will be allowed to return to work upon establishment of reasonable accommodations and/or other requirements. If the Institute determines that accommodations cannot reasonably be provided or if the requested accommodations would impose an undue hardship on the Institute, the employee is not Fit for Duty.

If the employee is not Fit for Duty, the employee will not be allowed to return to work. The ERC and the employee’s Benefits and Leave Consultant will discuss options for voluntary separation from the Institute with the employee. If the employee declines to seek a voluntary separation from the Institute, the employee may be involuntarily separated from the Institute, consistent with applicable Institute Policies and Procedures.

1. **Failure to Comply**

An employee who fails to undergo the evaluation as directed or fails to adhere to any condition(s) of employment established as a result of the evaluation, including failing to engage with any process to determine what accommodations or requirements may make the employee Fit for Duty, may not be allowed to return to work and may be subject to disciplinary action, up to and including separation from the Institute, consistent with applicable Institute policies and procedures.

1. **Appeals**

Employees may have an option to appeal the requirement of an evaluation or any employment action resulting from the results of the evaluation. For more information about possible appeal options, Employees should consult the applicable Grievance Appeal policy.

1. **Confidentiality**

The Institute will comply with all relevant federal and state law related to the privacy of employee records.