

Institutional Handbook of Operating Procedures
Policy 03.07.01

Section: Employee Policies	Responsible Vice President: Vice President and Chief Human Resources Officer
Subject: Employment Related	Responsible Entity: Human Resources

I. Title

Fitness for Duty

II. Policy

The University of Texas Medical Branch (UTMB) is committed to providing a safe environment for all employees, students, and patients. In order to provide a safe work environment, employees must be able to perform their job duties in a safe, secure, productive, and effective manner, and remain able to do so through the entire time they are working. Employees who are not fit for duty may present a safety hazard to themselves, other employees, UTMB, or the public.

UTMB, in compliance with applicable federal laws and regulations, strives to maintain an environment free from discrimination against individuals on the basis of race, color, national origin, sex, age, religion, disability, sexual orientation, gender identity or expression, genetic information, or veteran status.

The purpose of this policy is to establish procedures by which UTMB will evaluate an employee's [fitness for duty](#) when an employee is:

- A. Having observable difficulty performing work duties in a manner that is safe for the employee, other employees, the University, or the public, as determined by the [supervisor](#) or their designee(s); or
- B. Posing a credible and/or imminent threat to the safety of self or others.
- C. Subject to requirements outlined for UT System commissioned and non-commissioned law enforcement personnel.

Violation of this policy may result in disciplinary action up to and including termination for employees or a termination of employment relationship in the case of contractors or consultants. Additionally, individuals may be subject to loss of access privileges and civil and/or criminal prosecution.

All physicians and residents employed, appointed, affiliated, or in a training capacity with UTMB are subject to the process outlined in [UTMB IHOP Policy 8.1.7, Evaluation and Treatment of Impaired Physicians](#).

III. Responsibilities

- A. Employee Responsibilities:
 - 1. Employees are responsible for managing their health in a manner that allows safe performance of job responsibilities.

2. Employees must come to work fit for duty and must perform their job responsibilities in a safe, secure, productive, and effective manner during the entire time they are working.
3. Employees are responsible for notifying their supervisors when they are not fit for duty.
4. Employees are responsible for notifying their supervisors when they observe a coworker acting in a manner that indicates the coworker may be unfit for duty. If the supervisor's behavior is the focus of concern, an employee may inform their upper level manager or call [Human Resources – Employee Relations](#) for further guidance.

B. Supervisor Responsibilities:

1. Supervisors are responsible for observing the attendance, performance, and behavior of the employees they supervise.
2. Supervisors are responsible for promptly following the procedures in this policy when presented with circumstances or knowledge that indicate that an employee may be unfit for duty.
3. Supervisors are responsible for arranging safe transportation for the employee from the work site if necessary. UTMB personnel will not provide transport for the employee.

IV. Procedures

- A. In situations where there is a basis to think that a crime may have been committed and/or the employee is making threats to harm himself or herself or others or is acting in a manner that is immediately dangerous to himself or herself or others, the supervisor will contact the UTMB Police Department. Human Resources and the Director of Employee and Occupational Health will be consulted regarding the fitness for duty procedure after the immediate safety issue has been addressed.
- B. When the supervisor personally observes an employee, who may be unfit for duty, the supervisor will document the observations as soon as is practicable using the Fitness for Duty Observation Report. When possible, the supervisor should have another observer complete a separate observation report. Each observer should completely and accurately outline how the employee's behavior jeopardizes safety or the employee's ability to perform his or her job.
- C. When the supervisor receives credible and/or reliable information that an employee may be unfit for duty, the supervisor should have the reporting party complete an observation report. When possible, the supervisor should validate and document the information.

Note: Actions that may trigger the need to evaluate an employee's fitness for duty include, but are not limited to: problems with dexterity, coordination, concentration, memory, alertness, vision, speech, inappropriate interactions with coworkers or supervisors, or suicidal or threatening statements.

- D. The supervisor forwards the reports to Employee Relations, and the Employee Relations representative reviews the documents to determine if it is appropriate to move forward with a [fitness for duty evaluation](#).
- E. The Employee Relations representative will submit the observation reports and other supporting documentation to the Director of Employee and Occupational Health, or designee, to schedule the evaluation. The employee's home department will cover any expenses that may be incurred during a fitness for duty evaluation.

- F. In situations where there is reason to believe that the employee is working under the influence of drugs or alcohol, the supervisor should ask the employee to agree to a voluntary substance testing.
 - 1. If the employee agrees, the Employee Health Clinic will conduct biometric testing, which may include breath alcohol testing or a 32-panel drug screen. Test results will be reported to the Director of Employee and Occupational Health, or designee, through the usual business practice. When testing is needed after normal business hours, the employee may be taken to an Emergency Department.
 - 2. If the employee does not agree, the supervisor will arrange safe transport home for the employee and notify him or her of the fitness for duty evaluation appointment. UTMB personnel will not provide transport for the employee.
- G. Employees being referred for a fitness for duty evaluation will be relieved of duties and placed on paid administrative leave pending completion of the evaluation and receipt of the results by UTMB.
- H. Following notification from the Director of Employee and Occupational Health, or designee, of the fitness for duty evaluation results, the Employee Relations representative will work with the supervisor to assist with the employee's return to work. If the employee is not cleared to return to work, his or her employment and pay status will be determined on a case-by-case basis in accordance with University policies and procedures. Applicable employee leave accruals and FMLA entitlements will be used to cover continued approved leaves of absence from work.
- I. The Director of Employee and Occupational Health, or designee, will assist Correctional Managed Care (CMC) Human Resources in locating an appropriate health care provider for CMC employees requiring a fitness for duty evaluation upon receipt of documentation from CMC Human Resources. In situations of suspected impairment, CMC employees will be offered the option of a voluntary drug and alcohol screen only if testing facilities are within a reasonable distance from the worksite and safe transport can be provided to the testing facility. In the absence of the drug and alcohol test, the employee will still be referred for a fitness for duty evaluation.
- J. The employee may be referred to the Employee Assistance Program for support during the fitness for duty evaluation process and subsequent treatment.
- K. Any documentation generated during the fitness for duty evaluation process that contains medical information about an employee is considered a medical record and regarded as confidential. The Employee Health Clinic will maintain medical records in a file separate from all other employee records. These records will be maintained in a manner consistent with the Health Insurance Portability and Accountability Act (HIPAA).

V. Procedures for UT Police Personnel

UTMB Police personnel, both commissioned and non-commissioned, shall submit to a drug and alcohol screening within four hours after being involved in a:

- 1. Discharge of a firearm, as per UT System Police policy 605 and UTMB Police policy 3.10.
- 2. Use of force incident that resulted in serious bodily injury or death to any person, even if no firearm was used.
- 3. Unintentional discharge of a firearm, including unintentional discharges during range practice.

4. Traffic collision while operating a state vehicle on-duty or en-route to or from a duty assignment in a UT owned vehicle.
 - a. Traffic collisions with fixed objects that do not result in any damage to any object or vehicle are exceptions to the testing requirement.
 - b. Operator not being at fault in the accident is no exception to the drug/alcohol testing requirement.

Employees who are involved in one of the above listed incidents shall notify their supervisor, who will coordinate the drug and alcohol test through Human Resources and Employee Health. Test results will be reported to the Director of Employee and Occupational Health, or designee, through the usual business practice. When testing is needed after normal business hours, the employee may be taken to an Emergency Department. The Campus Police Telecommunications office shall maintain the current point of contact for coordinating tests after regular business hours. Failure to submit to this test shall be considered insubordination and will be subject to disciplinary action, including termination.

VI. Definitions

Fitness for Duty: Whether an employee is physically and mentally capable of safely performing the essential functions of their job with or without reasonable accommodation.

Fitness for Duty Evaluation: Evaluation by a healthcare professional with appropriate expertise in one or more of the following: medical conditions, psychological conditions, and/or conditions related to the use or abuse of alcohol or other substances.

Supervisor: For staff, the person to whom the employee reports; and for faculty, their Chair or Dean.

UTMB personnel: Any faculty, staff, student, volunteer, or any other contractors or agents of UTMB

VII. Related UTMB Policies and Procedures

- [IHOP - 03.07.03 - Employee Assistance Program \(EAP\)](#)
- [IHOP - 03.06.05 - Emergency Leave \(Including Funeral Leave\)](#)
- [IHOP - 03.01.09 - Discipline, Dismissal and Appeal for Classified Employees](#)
- [IHOP - 08.01.07 - Evaluation and Treatment of Impaired Physicians](#)
- [IHOP - 08.01.09 - Manufacture, Sale, Possession, Distribution, or Use of Alcohol, Controlled Substances or Drugs](#)

VIII. Dates Approved or Amended

<i>Originated:</i> 05/07/2009	
<i>Reviewed with Changes</i>	<i>Reviewed without Changes</i>
10/06/2015	
05/29/2019	
07/07/2021	

IX. Contact Information

Human Resources – Employee Relations
 (409) 772-8696
 hremprel@utmb.edu