

City of Hickory

FITNESS FOR DUTY POLICY

I. Policy Statement

- A. The City of Hickory is committed to providing a safe working environment and protecting the health and safety of employees and citizens. In order to provide a safe working environment, employees must be able to perform their job duties in a safe, secure, productive and effective manner, and remain able to do so throughout the entire time they are working. Employees who are not fit for duty may present a safety hazard to themselves, other employees, or to the public. This policy is not a substitute for discipline or confidential counseling.
- B. Fitness for duty as it relates to this policy covers both, psychological and physical fitness for duty.
- C. The City may request a Fitness for Duty examination at any time, for any City employee, when there is a reasonable belief, based on objective evidence, that (1) the employee's ability to perform the essential functions of the his/her job is impaired by a medical or psychological condition or (2) that an employee will pose a direct threat due to a medical or psychological condition.

II. Scope

- A. This policy applies to all employees of the City of Hickory. This policy cannot be applied if the coworker is currently on FMLA leave, returning from FMLA leave or is out on Worker's compensation leave. This policy does not supersede the City of Hickory Leave Policy or the Workers' Compensation Policy.
- B. The policy can be enacted once the employee returning from leave is reinstated to his/her position.
- C. It is the intent of this policy to meet all obligations set forth by ADA, FMLA and the Workers' Compensation Act. The department head, supervisor and Human Resources will work as a team when the department intends to utilize this policy to ensure fairness and consistency.

III. Definitions

- A. ADA – Americans with Disabilities Act 1990
- B. Fitness for Duty – Able to perform the essential functions of the job, both physical and mental, in a safe, secure, productive and effective manner. Must be consistent with business necessity.
- C. Fitness for Duty examination – A designated professional, third party assessment of an employee's or prospective employee's physical, emotional and/or mental capacities, carried out by a licensed healthcare provider with expertise to determine if an employee is or is not capable of effectively performing his/her essential job functions without posing a threat to his/her own safety or the safety of others.
- D. Accommodation – Any change in the work environment in the way things are customarily done that enable an individual with a disability to enjoy equal employment opportunities.
- E. Direct threat – (ADA, EEOC, CFR 1630) – A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.
- F. Disability – Physical or mental restrictions in major life activities, including work.
- G. FMLA – Family and Medical Leave Act 1993

- H. Health Care Provider – Physician's , dentists, clinical social worker, chiropractor or any other provider recognized under the City's group benefits plan.
- I. Serious Health Condition – Any period of incapacity or treatment due to inpatient care; any absence of more than three days due to continuing treatment by a healthcare provider;
- J. PHI – Private Health Information – Any health information held by a covered entity which concerns health status, provision of health care, or payment for health care that can be linked to an individual.
- K. Professional Third Party Provider – Health Care provider designated by the City of Hickory. .

IV. Employee Responsibilities

- A. Employees must manage their health in a manner that allows them to safely perform their job responsibilities.
- B. 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.
- C. Employees are responsible for informing their supervisor when they are not fit for duty due to psychological/physical impairment or medications taken. See also p. 3, Section IV.B., City of Hickory Drug and Alcohol Policy.
- D. Employees are responsible for notifying the supervisor 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 the department head or call Human Resources for assistance.

V. Employer Responsibilities

- A. Supervisors shall be responsible for observing the attendance, performance and behavior of the employees they supervise.
- B. Department Heads have the obligation to report, document and investigate inappropriate workplace behavior.
- C. Supervisors and department heads are responsible for following this policy's procedures when presented with circumstances or knowledge that an employee may be unfit for duty.
- D. Supervisors and department heads must maintain confidentiality of medical records. Any document containing medical information about an employee is considered a medical record and is regarded as confidential.
- E. Human Resources will maintain records pertaining to fitness for duty in a separate file (electronic) from all other employee records.

VI. Procedures

- A. Fitness for Duty Exam for Current Employees
 - 1. A supervisor or department head may receive reliable information that an employee may be unfit for duty or may make a personal observation that the employee is unfit for duty.
 - 2. The supervisor or department head will validate and document the information or observations as soon as is practicable.

3. Actions that may trigger a request for a fitness for duty examination include but are not limited to:
 - i. Decreased productivity
 - ii. Excessive or patterned absences
 - iii. Agitation or nervous behavior
 - iv. Problems with dexterity, coordination, memory, alertness, vision and speech
 - v. Inappropriate interactions with coworkers or supervisors
 - vi. Inappropriate reactions to criticism
 - vii. Suicidal or threatening statements
 - viii. Notes from personal physicians giving severe restrictions or liberal absence
 - ix. Excessive, documented work absences
 - x. Drastic changes in appearance and grooming
 - xi. Violence in the workplace
 - xii. Any other factor or combination of factors that causes a supervisor or department head to reasonably suspect that a Fitness for Duty evaluation may be necessary.
4. All requests for a Fitness for Duty exam must be made to the department head. The department head will consult with the Administrative Services Director and/or his designee.
5. The Administrative Services Director and/or his designee will ensure that all obligations set forth by ADA, FMLA and the Workers' Compensation Act are met.
6. The fitness for duty examination will be conducted by an independent, licensed health care professional, designated and paid for by the City of Hickory.
7. Failure to comply with a Fitness for Duty examination and all necessary releases for information may result in disciplinary action up to and including dismissal.
8. The employee must follow the medical directives of the City of Hickory's designated medical provider. This includes, but is not limited to, further examination by specialists as deemed necessary by the City's medical provider.
9. If an employee is deemed unfit for duty, but deemed fit with a reasonable accommodation, the City will make every effort to ensure that accommodation is made in compliance with the ADA, FMLA and the Workers' Compensation Act.
10. Any information obtained as a result of the fitness for duty evaluation will be maintained in a separate file (electronic) and treated as a confidential record. The confidential files are maintained by and housed in the Human Resources Division.
11. Costs associated with the Fitness for Duty Exam shall be paid by the employee's department.
12. City requested second opinions shall also be paid by the employee's department.
13. Second opinion evaluations requested by the employee shall be paid by the employee and must involve an appropriate credentialed mental health or health care provider.

VII. Other Fitness Testing

A. Police: Refer to the Police Department's policy and/or procedure for the Police Officer Physical Agility Testing (POPAT).

B. Fire: Refer to the Fire Department's policy and/or procedure for the Job Related Performance Ability Test (JRPAT).

For assistance with this policy, please contact the Administrative Services Director or his designee.

Date: October 1, 2014

Signed:


Mick Berry, City Manager