

Fitness for Duty Evaluations**1.3.3****PURPOSE**

The City of San Jose seeks to provide a work environment that is safe for all employees. At times, it is possible that the physical or psychological condition of an employee may create a work environment that represents a danger to the employee, the employee's coworkers, or others.

When there is reason to believe that an employee's physical or psychological health is impaired to the extent that it affects his or her job performance, or presents a risk to that employee or others, a fitness for duty evaluation may be conducted. The purpose of a fitness for duty evaluation is:

- 1) To determine if the employee is medically able to perform his or her job duties in a safe and efficient manner, and;
- 2) To help the employee obtain appropriate treatment or accommodations, if necessary, so that the employee can successfully return to work with the City whenever possible.

AUTHORITY

San Jose Municipal Code (Civil Service Rules), Section 3.04.1600

The Director of Human Resources may also require medical examinations of employees in such classifications as the Director deems necessary.

Such exams may consist of such tests, processes, evaluations and medical histories as the Director may deem reasonably necessary to determine the condition of the health of the applicants or employees for employment.

POLICY

1. Requests for Fitness for Duty Evaluations.

A Department Director or Council Appointee may request a fitness for duty evaluation for an employee in his or her organization if the employee demonstrates an inability to adequately perform aspects of the job for apparent physical or psychological reasons, or if there is good cause to believe that the employee's behavior or condition represents a safety risk. The request should be directed to the Director of Human Resources in a confidential memo that provides the reason for the request.

2. Criteria for Conducting a Fitness for Duty Evaluation.

The Director of Human Resources will review the request by considering the following criteria:

- Observations of job performance difficulties that appear to be related to psychological or physical conditions,
- Indications of safety or health risks to the employee or others,

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- Indications that the department has taken any other appropriate steps to help the employee such as job accommodation or use of the Employee Assistance Program,
- A determination that the matter is not already being handled through either the workers' compensation or disability retirement systems,
- A determination that the request is not being used as a substitute for progressive discipline, when the employee appears to be capable of satisfactory job performance.

3. Role of the City Physician

If approved, the fitness for duty evaluation will be referred to the City physician. The City Physician will review any pertinent medical records available for the employee and may schedule a meeting with the employee to discuss the medical issues and the fitness for duty process. Depending on the City physician's assessment of the appropriate course of action, he or she may then use the services of an outside medical specialist for evaluation or consultation. Upon completion of the evaluation, the City physician will make a recommendation to the Director of Human Resources.

4. Relationship to Employee Assistance Program (EAP)

If the issues are related to the employee's mental or emotional state but do not appear to present an imminent risk to the employee or others, it may be appropriate to refer the employee to the City's EAP for counseling, prior to requesting a fitness for duty evaluation.

5. Relationship to the Use of Drugs and Alcohol

Violations of the City's substance abuse policies should be handled according to the agreements established with the various bargaining units. When a reasonable suspicion exists that an employee is under the influence of a controlled substance, the supervisor should consult the appropriate Memorandum of Agreement or the Office of Employee Relations for guidance in how to proceed. Incidents of potential drug or alcohol abuse should generally not be considered for a fitness for duty request.

6. Employee's Status During the Fitness for Duty Evaluation

If an employee can continue working in his or her regular job without posing a threat to personal or public safety, the employee may be permitted to do so during the period of time the fitness for duty evaluation is conducted. If this is not possible, the employee may be placed in a modified assignment or placed on leave of absence. Generally, these leaves of absence are unpaid medical leaves, but in certain circumstances, disability leave, sick leave, or administrative leave may be appropriate. Consult with the Director of Human Resources for determination of appropriate leave for a specific case.

7. Confidentiality

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Medical information pertaining to City employees is strictly confidential. Any information generated for the fitness for duty evaluations shall be restricted, with access only to the medical staff and the Director of Human Resources (or his/her representative). Department Directors or their designated representatives will be informed of the outcome of the evaluation, including any recommended treatments or job accommodations. Department Directors will normally not receive access to the doctors' reports, with the exception of the Police Department, which may have a need to review reports involving sworn Police Officers, based on considerations of public safety. The results of the fitness for duty will be retained only in the employee's confidential medical file in Employee Health Services (EHS).

8. Results of the Evaluation

After the City physician completes the evaluation, he or she will prepare a confidential report with recommendations to the Director of Human Resources. A report to the department that initiated the request will indicate whether the employee is able to return to full duty or not, and what restrictions, if any, apply. The report may also recommend treatment, either as a condition of employment or at the option of the employee. Information will be released to the affected department strictly on a need-to-know basis.

9. Funding

Since Human Resources has limited funding available for fitness for duty evaluations, departments may be asked to pay for the costs of a fitness for duty evaluation, including the City physician's time.

PROCEDURES

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| Department
Director | 1. Sends memo to Director of Human Resources requesting a fitness for duty evaluation. |
| Director of HR | 2. Reviews memo and approves or denies request based on the criteria described above. |
| Supervisor | 3. If approved, the employee's supervisor informs the employee of the request and the process. The supervisor or department representative contacts Employee Health Services (EHS) to make initial arrangements. |
| EHS/
City Physician | 4. Obtains any pertinent medical records from the employee's physician or workers' compensation. |
| EHS/
City Physician | 5. Reviews the medical records, conducts an evaluation and obtains outside consultation if necessary. |
| EHS/ | |

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- City Physician 6. Reports findings and recommendations in writing to the Director of Human Resources.

- Human Resources 7. Communicates and coordinates with Department Director as needed.

/s/ Mark Danaj
Approved

10/26/2007
Date