
FITNESS FOR DUTY POLICY

Policy Statement:

Bergen Community College (the College) is committed to providing a safe work environment for all members of the College community. Employees must be able to perform their job duties in a safe, secure, and productive manner and remain fit to do so throughout their employment at the College. Employees who are not fit for duty may present a safety risk to themselves, other employees, students, visitors, or other members of the College community.

Reason for Policy:

To document the College's commitment to providing a safe, secure, and productive work environment, which includes requiring employees to be physically, mentally, and emotionally capable of performing their essential job functions (i.e., fit for duty) without posing a direct threat to themselves or others. This includes:

- Identifying what is considered fit for duty and what is not, including the related responsibilities of the College, supervisors, and employees, and the evaluation of an employee's fitness for duty.
- Establishing the related responsibilities of the College, supervisors, and employees;
- Describing the circumstances under which a Fitness for Duty evaluation may be required; and
- Supporting the College's compliance with all applicable federal and state laws and regulations.

Who Should Read This Policy:

All faculty and staff members, including student employees

Definitions:

Terms used in this policy that are defined under applicable law shall have the meaning assigned by those laws.

Fit for Duty (FFD)

An employee is fit for duty when the employee can safely and competently perform the essential and assigned functions of the employee's position, with or without reasonable accommodation, and without posing a direct threat to the safety of the employee or others. In the context of reasonable accommodation under the Pregnant Workers Fairness Act (PWFA), an employee is fit for duty when she can resume her duties in the near future as defined by requisite Equal Employment Opportunity Commission (EEOC) guidance and regulation.

Licensed Healthcare Provider

A person or entity authorized by a state or regulatory body to provide healthcare services, typically in the context of a provider-patient relationship. This may include preventive, consultative, assessment, and treatment services and generally involves applicable education, training, licensure, certification, and adherence to professional standards.

Fitness for Duty (FFD) Evaluation

A job-related assessment, which may include medical information or an evaluation by a licensed healthcare provider, used to determine whether an employee can (i) safely and effectively perform the essential functions of the employee's position, with or without reasonable accommodation or (ii) resume essential functions in the near future in accordance with the PWFA and implementing regulations. FFD evaluation may be required when there is a reasonable belief, based on objective evidence, that a physical, mental, emotional, cognitive, or behavioral condition may impair safe work or pose a direct threat. FFD evaluations must be job-related and consistent with business necessity.

Reasonable Accommodation

A modification or adjustment to a policy, procedure, program, service, activity, work environment, or manner in which a job is performed, provided to a qualified individual with a disability where required by applicable law, which enables the individual to perform the essential functions of the position or otherwise participate in College programs, services, or activities, unless doing so would create an undue hardship or direct threat that cannot be eliminated or reduced by reasonable accommodation.

Direct Threat

A significant risk of substantial harm to the health or safety of the employee or others that cannot be eliminated or reduced by reasonable accommodation. Any direct threat determination will be based on an individualized assessment using objective evidence and applicable legal standards.

The Policy:

The College complies with all federal and state laws and regulations that are focused on the safety, security, and health of its workforce, including fitness for duty requirements and evaluations. This includes, but is not exhaustive of, compliance with the following federal laws: the Americans with Disabilities Act (ADA), the Family and Medical Leave Act, the Occupational Safety and Health Act, the PWFA, the Pregnancy Discrimination Act (PDA), the Civil Rights Act of 1964, and the following New Jersey state laws: Public Employees Occupational Safety and Health Act and New Jersey Law Against Discrimination. The College provides a safe workplace for the benefit of all employees and, in turn, expects all employees (i.e., faculty, staff, and student workers) to be fit for duty in the performance of their job responsibilities. Being fit for duty entails safely and competently performing all work responsibilities and requirements of an employee's job. If an employee cannot meet these requirements, the employee may be considered not fit for duty for the employee's current position.

The key characteristics of being fit for duty include the following:

- **Physical Capacity:** Employees possess the necessary physical abilities, strength, flexibility, endurance, coordination, and other physical capabilities required to meet the physical demands of their job, with or without reasonable accommodation(s). In the case of the PWFA, the ability of a qualified individual to resume her job duties in the near future in accordance with statutory and regulatory definitions.
- **Mental and Emotional Stability:** Employees demonstrate the cognitive function, judgment, emotional stability, and behavioral control necessary to perform job duties safely and effectively, manage job-related stress, and interact appropriately with colleagues, students, visitors, and the public.
- **Safety-Mindedness and Risk Tolerance:** Employees understand and adhere to safety procedures and practices, and do not engage in conduct that creates unnecessary or unacceptable safety risk.

All policies are subject to amendment. Please refer to the College Policy website (<https://bergen.edu/about-us/college-policies/>) for the official, most recent version.

- **Ability to Perform Essential Job Functions:** Employees can perform the fundamental duties of their positions, with or without reasonable accommodation. In the context of the PWFA, the ability of a qualified individual to

The College requires employees to be physically and mentally capable of performing the essential functions of their job safely and effectively. When an employee has observable difficulty performing their job responsibilities, and/or a reasonable belief based on objective evidence, it can create an unsafe situation for the employee and/or other members of the College community, or pose an imminent and serious safety threat to the employee or others. This includes circumstances under which an employee may be referred to for an FFD evaluation.

Managerial Discretion

The College retains the discretion to assess fitness-for-duty concerns on a case-by-case basis, considering the totality of the circumstances, including observed behavior, job requirements, and safety considerations. Nothing in this policy is intended to limit the College's ability to take appropriate action to maintain a safe and effective work environment. Nothing in this policy alters the at-will employment relationship or limits the College's ability to take appropriate personnel action consistent with applicable law.

Determinations regarding fitness for duty will be based on objective evidence, job-related factors, and business necessity, in accordance with applicable law.

FFD vs. ADA and PWFA Impairments and Limitations

This policy addresses an employee's current ability to safely perform essential job functions. It is distinct from but operates in coordination with the College's ADA and PWFA Accommodation policies.

While this policy addresses an employee's current ability to safely perform essential job functions, it does not replace or supersede the College's obligations under the ADA or the PWFA.).

The College will evaluate each situation based on applicable law, including, where required, engaging in the interactive process.

FFD Evaluations

The College retains the discretion to determine when a Fitness for Duty evaluation is appropriate, based on the totality of the circumstances. If an evaluation is deemed necessary, the College will cover the cost of the evaluation.

Examples of conditions that may impact an employee's fitness for duty include, but are not limited to:

- Observable impairment affecting judgment, coordination, or behavior
- Medical or physical conditions that limit the ability to safely perform job duties
- Cognitive or behavioral concerns that may pose a safety risk
- The effects of substance use or medication that impair safe job performance

Examples may include, but are not limited to, and should not be interpreted as exhaustive or required conditions :

- Has been on medical leave and requires medical clearance to return to work.
- Concerns about job performance, behavior, or safety, which include but are not limited to:
 - A medical issue or emergency.
 - Problems with dexterity, coordination, concentration, memory, alertness, vision, or speech.
 - Inappropriate interactions with co-workers or supervisors.
 - Inappropriate reactions to criticism, or suicidal or threatening statements.

- Statements made or actions that affect their ability to perform job duties, or which pose a threat to the safety of themselves or others.
- Indicators commonly associated with impairment (e.g., alcohol or illegal drug use, or misused/correctly used prescribed or over-the-counter drugs) that negatively affect vision or behavior.

Human Resources, Office of Health Services, and other appropriate College parties will determine whether a Fitness for Duty evaluation is necessary. A licensed healthcare provider may be utilized for an FFD evaluation. Failure to comply with a required Fitness for Duty evaluation may result in disciplinary action, up to and including termination.

FFD evaluations and related questions must be "job-related and consistent with business necessity," that pertain to the conduct of the College's business and the employees' responsibilities. \. The College can mandate FFD evaluations when it has a reasonable belief, based on objective evidence, that a medical or other condition impairs an employee's ability to work or poses a direct threat to self or others.

The College will assess an employee's fitness for duty.. If the College is unable to provide effective and reasonable accommodation, the employee may be deemed unfit for duty in their current position. The College may consider reassignment to a vacant position, where appropriate. Results of an FFD evaluation are kept confidential and separate from the employee's general personnel file.

FFD Responsibilities

The College, supervisors, and employees each have responsibilities under this policy regarding fitness for duty, including when someone is deemed fit for duty and when someone is deemed unfit for duty. The College must implement policies, provide a safe environment, and provide reasonable accommodation(s). Supervisors must observe the performance and behavior of employees reporting to them and follow procedures for potential issues when an employee is found unfit for duty. Employees are encouraged to notify their supervisor or Human Resources if they believe a condition may impact their ability to safely perform their job. The College's Fitness for Duty Responsibilities, Process, and Procedures provide more detailed responsibilities of the College and its members and the related processes and procedures pertaining to FFD matters and FFD evaluations.

Applicable Federal and State Laws and Regulations

This policy will be administered in compliance with all applicable federal and state laws, including but not limited to the ADA, PWFA, Civil Rights Act of 1964, FMLA, OSHA, PEOSHA, and NJ Law Against Discrimination.

Related Documents/Policies:

Drug-Free Schools and Communities Act

Policy History: (adopted/amended)

Adopted: August 4, 2026

Amended:

Reviewed: