

## Standard Practice Guide Policies

### Temporary Removal of Faculty for Lack of Fitness for Duty

201.15-01

**Applies to:** All Faculty on the tenure, research and clinical tracks

#### I. Policy

The essential functions of the faculty of the University of Michigan are teaching, research/scholarship, and service/leadership. Each faculty member is expected, at a minimum, to be able to contribute to these functions as defined by his or her school or college, in writing or by practice. In most schools and colleges, there will be, for example, an expected teaching load; in some units where it is feasible, there is an option of accommodating imbalance in responsibilities by reassignment. In general, there is a presumption that faculty are fit for duty.

This policy addresses the process and criteria to be used when considering the timely, administrative removal from assigned duties of a faculty member who is unable to perform the essential functions of his or her position, despite reasonable accommodations. This policy applies, and can be implemented, only in those situations in which observable conduct has raised a substantial and serious question or concern whether a faculty member is physically and mentally capable of performing his or her essential functions and the faculty member believes that such concern is unwarranted. In such situations, as under SPG 201.15, the faculty member may be referred for a fitness for duty evaluation as described below.

Application of this policy is not intended as a substitute for other University policies or procedures related to performance, including those imposed because of clinical or professional requirements. In addition, application of this policy is not a substitute for discipline or action taken because of willful behavior unrelated to physical and/or mental capability.

#### II. Definitions

- A. "Faculty" – This policy applies to all faculty on the tenure, research, and clinical tracks.
- B. "Fitness for Duty" – The faculty member is physically and mentally capable of performing the essential functions of his or her position.
- C. "Lack of Fitness for Duty" – The faculty member is temporarily or permanently incapable, physically and/or mentally, of performing the essential functions of his or her position, despite reasonable accommodations.

#### II. Regulations

- A. Faculty members must be capable of performing the essential functions appropriate to their academic title, as defined in written policy or by practice in their schools and colleges, with regard to teaching, research/scholarship, and service/leadership.
- B. When a substantial and serious question, based on documented evidence, arises about a faculty member's ability to perform the essential functions of his or her position, a dean, with the advice and counsel of Academic Human Resources, the University's ADA Coordinator, and the Office of the General Counsel, may decide that it is appropriate to refer a faculty member for a fitness for duty evaluation.
- C. To minimize the detrimental impact of the observable behavior on others, a faculty member referred for a fitness for duty evaluation may be immediately administratively relieved of some or all duties pending completion of the evaluation, as determined by the dean or his/her delegate, in consultation, where feasible, with Academic Human Resources and the Office of the General Counsel.
- D. When a faculty member is referred for a fitness for duty evaluation and/or immediately relieved of some or all duties pending evaluation, written notice must be given to the faculty member stating the reasons for the referral (including failure to perform essential functions) and identifying the evidence upon which the decision is based. A faculty member's compensation and benefits will remain unchanged until a decision based on the evaluation is made.
- E. Upon request, the University will arrange for an impartial, qualified, independent health care professional with appropriate expertise to conduct a medical evaluation and make recommendations concerning the faculty member's fitness for duty. The University will pay the cost of this evaluation. The faculty member may request an additional evaluation, within a reasonable time, at his or her expense. If the evaluations disagree, the University may request a third evaluation or review of the medical file at the University's expense. Work Connections will communicate evaluation results to Academic Human Resources, and Academic Human Resources will, in turn, communicate essential information to the School or College.

F. After obtaining the results of any medical evaluation(s), the dean of the School or College or his or her delegate, in consultation with Academic Human Resources, the ADA Coordinator, and the Office of the General Counsel, shall make the determination of a faculty member's fitness to perform the essential functions of his or her position. When possible, the dean of the School or College or his or her delegate, in consultation with the ADA Coordinator, the Office of General Counsel, Academic Human Resources, the chair, and the faculty member, will develop a plan of reasonable accommodation(s) or modified duties based on the independent evaluation(s).

When a faculty member is determined to be unfit for duty, his or her employment status will be decided on a case-by-case basis, in accordance with University policy and practice. If a medical leave is necessary, appropriate income protection and long-term disability policies apply. Existing policies concerning leaves of absence continue to apply. Although a faculty member's effort (and, consequently, a proportionate share of his or her compensation) may be reduced because he or she is unable to perform expected duties for an extended period of time, the determination that a faculty member is unfit for duty shall not affect his or her tenured status.

Active health care and retirement contributions will continue during the period of disability for a period of time consistent with the maximum benefit duration under the University's long-term disability plan.[1] (file:///C:/Users/mdcurry/Downloads/Final%20SPG%20201.15-1,%20Temporary%20Removal%20of%20Faculty%20for%20Lack%20of%20Fitness%20for%20Duty-April%2028%202015.docx#\_ftn1) The School or College will provide the faculty member with at least three (3) months advance notice of a reduction in effort. The faculty member is entitled to have his or her case re-evaluated in view of new evidence.

G. Non-compliance with a request for a fitness for duty evaluation may be cause for disciplinary action.

H. A faculty member may challenge actions taken under this policy under the applicable procedure, typically the School or College faculty grievance procedure. A faculty member may also seek informal resolution through discussion among the parties, use of the School or College, or University, Ombuds or mediators, or through the intervention of School or College or University officials with appropriate authority.

I. Confidentiality/Privacy. Records of fitness for duty evaluation will be treated as confidential health records and be kept separate from existing department and personnel files; this information can be shared only on a strict "need to know" basis as determined by the dean or his or her delegate in consultation with Academic Human Resources.

J. This policy is to be consistent with and should be interpreted to be in conformance with requirements of the Americans with Disabilities Act, the Persons With Disabilities Civil Rights Act, and the Family and Medical Leave Act.

[1] While the following durations are subject to change should the University's expanded long-term disability plan change, the current maximum duration for active health care and retirement contributions under this SPG is as follows:

Age at which coverage begins	Maximum Duration of coverage under Section II.F.
Under 62	To age 65
62 but less than 63	42 months
63 but less than 64	36 months
64 but less than 65	30 months
65 but less than 66	24 months
66 but less than 67	21 months
67 but less than 68	18 months
68 but less than 69	15 months
69 and over	12 months

#### File Attachments

Printable PDF of SPG 201.15-01, Temporary Removal of Faculty for Lack of Fitness for Duty (<http://spg.umich.edu/sites/default/files/201x15-01.pdf>)

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