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**BOARD OF COUNTY COMMISSIONERS  
HILLSBOROUGH COUNTY  
TAMPA, FLORIDA 33601**

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**BOARD POLICY – SECTION NUMBER 07.16.00.00:**

**SUBJECT:                    FITNESS FOR DUTY**

**EFFECTIVE DATE:          December 16, 2009**

**SUPERSEDES:              NEW**

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**PURPOSE AND POLICY**

To establish a fitness for duty program for employees serving as Commissioners' Aides, including procedures and guidelines for the administration of Fitness for Duty Reports and Meetings.

The Board of County Commissioners is committed to providing a safe work environment for employees subject to this policy. Employees who are not fit for duty may present a safety hazard to themselves, to other employees, to the County, or to the public. This policy establishes procedures by which the Commissioners will evaluate their employees' ability to perform the essential functions of their jobs in a competent and safe manner. This policy also establishes procedures by which the Commissioners will evaluate whether their employees should be allowed to return to duty, with or without medical restrictions or a reasonable accommodation.

**I.      Definitions**

- A.      Fit for Duty – Able to perform the essential functions of the job in a competent and safe manner, with or without a reasonable accommodation.
  
- B.      Fitness for Duty Meeting – A meeting between a Commissioner's Aide, the Commissioner for whom the Aide works, and a representative from the Employee Benefits & Risk Management Division of the Human Resources Department (Benefits Unit), to determine if the employee is able to perform the essential functions of the employee's job in a competent and safe manner, with or without a reasonable accommodation. This meeting will also address whether there is an issue of accommodation under the Americans with Disabilities Act (ADA) that must be forwarded to the County Attorney for review and resolution in conjunction with the Human Resources Director.
  
- C.      Fitness for Duty Report – A medical report and release completed and signed by an employee's physician, or a County-selected physician, that

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documents an employee's ability to perform the essential functions of the employee's job and details any temporary or permanent medical restrictions the employee may be subject to. (See Appendix A for Fitness for Duty Report Form).

II. Policy

It is the policy of the Commissioners to require a Fitness for Duty Report when:

- An employee is returning to work, with or without medical restrictions, from an approved medical leave of absence; or
- An employee is returning to work after having been out of work due to a serious health condition for more than seven (7) calendar days; or
- A Commissioner has a reasonable belief, based on objective information, that an employee's ability to perform the essential functions of the job in a competent and safe manner is impaired by a medical condition, or that the employee poses a direct threat to the employee, other employees, vendors, the County or the public due to a medical condition; or
- An employee requests an accommodation under the Americans with Disabilities Act (ADA) and the particulars of an employee's disability or need for accommodation is not known or obvious; or
- An employee is on a medical leave of absence and the Benefits Unit requests periodic updates on the employee's medical restrictions.

All fitness for duty exams requested by a Commissioner shall be job-related and consistent with business necessity.

III. Procedure

A. Fitness for Duty Procedures

1. An employee who is required to submit a Fitness for Duty Report must obtain a copy of the Fitness for Duty Report and relevant list of job duties from his or her Commissioner or the Benefits Unit of Human Resources. A copy of the Fitness for Duty Report is also attached to this policy as Appendix A.

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2. The [Fitness for Duty Report](#) must be completed and signed at the expense of the employee by the employee's treating physician and all required information must be fully completed.
3. Where the Benefits Unit has reason to question the validity of a Fitness for Duty Report provided by an employee, or where a Commissioner, after consulting County Attorney and the Human Resources Director, otherwise deems it necessary, the employee may be sent to a County-selected healthcare provider for a Fitness for Duty examination and Report at the County's expense.
4. All completed Fitness for Duty Reports must be submitted to the Benefits Unit at least two (2) business days prior to the employee's return to work date, where applicable. Employees are required to anticipate their return to work date and the requirement to obtain a Fitness for Duty Report. Delays in returning to work caused by the failure to timely submit the Fitness for Duty Report are not attributable to the County.
5. If an employee is returning to work after having been on a Medical Leave of Absence for seven calendar days or more, the employee may fax, mail, overnight or hand deliver the Fitness for Duty Report to the Benefits Unit for review. The Benefits Unit will then notify the employee and his or her Commissioner of the approval or denial of the Fitness for duty Report.
6. If an employee is on Medical Leave of Absence for seven (7) days or more and subsequently reports to work without a Fitness for Duty Report, the employee's Commissioner must contact the Benefits Unit before the employee may begin work. The employee may be sent home until the employee provides a Fitness for Duty Report from the employee's treating physician.
7. The employee's return to work may be delayed until a completed Fitness for Duty Report has been submitted, evaluated, and approved. During this period the employee may take any accrued paid or unpaid leave. Short-term disability (STD) benefits may also apply.
8. Alteration or falsification of a Fitness for Duty Report or failure to timely submit a required Fitness for Duty Report will subject an employee to discipline, up to and including termination of employment.

B. Fitness for Duty Meeting

1. A Fitness for Duty Meeting may be required when:
  - the County has reason to believe that an employee is unable to perform the essential functions of the employee's job, or that the employee poses a direct threat to the employee, other employees, the County, vendors, or the public due to a medical condition; or
  - an employee has submitted medical documentation indicating that the employee has medical restrictions that may impact the employee's ability to perform the essential functions of the job; or
  - the employee has been out on a medical leave of absence for nine (9) months or more.
2. The Benefits Unit is responsible for scheduling and facilitating the Fitness for Duty Meeting. Once scheduled, the Benefits Unit will mail notification of the meeting to the employee and courtesy copy the employee's Commissioner.
3. An employee may present any information relevant to the employee's ability to competently and safely perform the essential functions of the employee's job, with or without a reasonable accommodation, during the Fitness for Duty Meeting. It is the employee's responsibility to obtain all relevant information to be submitted on the employee's behalf for consideration at the Fitness for Duty Meeting.
4. The Benefits Unit and the Commissioner will review the employee's most recent Fitness for Duty Report with the employee during the Fitness for Duty Meeting, as well as any relevant information submitted by the employee. During the meeting, the Benefits Unit and the Commissioner will discuss with the employee his or her ability to competently and safely perform the essential functions of the employee's job, with or without a reasonable accommodation.
5. Any requests for an accommodation raised during a Fitness for Duty Meeting must be immediately forwarded to the County Attorney for review and resolution in conjunction with the Human Resources Director.

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6. Based on the information discussed in the Fitness for Duty meeting and after consultation with the County Attorney's Office, the Commissioner and the Benefits Unit will make a decision regarding the employee's ability to perform the essential functions of the job, with or without accommodations. A letter will be issued to the employee subsequent to the meeting detailing the outcome of the Fitness for Duty Meeting.

**Approved by:** Board of County Commissioners  
**Approval Date:** December 16, 2009