

	RUTGERS UNIVERSITY POLICE DEPARTMENT WRITTEN DIRECTIVE SYSTEM		3:21
	FITNESS FOR DUTY		
	Effective Date: 07-30-2018	Supersedes:	

3:21-1 PURPOSE

The purpose of this directive is to codify department policy concerning health and fitness in order for employees to remain sufficiently able to perform the essential functions of their positions and establish a process which ensures that employees will be unimpaired while performing their essential functions.

3:21-2 POLICY

It is the policy of this department to encourage participation in a regular program of health and fitness to remain sufficiently able to perform the essential functions of their positions.

3:21-3 GENERAL

- a. All department employees must be sufficiently fit to perform the essential functions of their positions in a safe, effective and an efficient manner. The nature of police work requires that all employees should be physically, psychologically and mentally prepared.
- b. For the purposes of this directive, the following terms are defined:
 - **Prescription** shall be construed to mean "A valid written or oral order for medication issued to the employee by a licensed physician or health care provider authorized to issue such order and used for its intended purpose as directed before any expiration date." Any ambiguity with regard to the application of this term shall be decided by the Chief of University Police.
 - **University Physician** shall be construed to mean the Director of the University's Occupational Health Department or designee.
- c. All employees should avoid any activity that might adversely affect their general health and well-being. All members should be conscious of their diet, get proper rest and sleep and have any health problems treated promptly.
- d. Any program of conditioning should be done only after consultation with a licensed physician. As such, all employees are strongly encouraged to avail themselves of medical guidance through their respective health benefits program that is provided by the University.
- e. The department recognizes that the nature of policing requires a level of general health and physical fitness not demanded by many other occupations. A satisfactory level of fitness increases an employee's overall health and contributes to a reduction in unscheduled absences. This directive will provide guidance to assist in maintaining proper fitness for duty.
- f. When consulting with their physician, employees should provide a copy of their current job specification. This document can be valuable to the physician in helping to determine the employee's present fitness for their specific job assignment.

- g. Employees should be evaluated based upon accepted medical criteria for their age, gender and job assignment. Each employee should be guided by their physician's recommendations concerning any medical tests/evaluations.

3:21-4 EVALUATING FITNESS FOR DUTY

- a. There may be situations where an employee's fitness for duty may be in question. The nature and circumstances surrounding a question of fitness may require a fitness for duty evaluation. Generally, a marked negative change in an employee's demeanor and/or job performance may signal the need for a fitness for duty examination.
- b. A fitness for duty evaluation itself is not disciplinary in nature; but there may be disciplinary consequences for whatever precipitated the exam. The fitness for duty evaluation can be used as an alternative to discipline. Disciplinary consequences may also arise from the results of a fitness for duty evaluation. (Example: an evaluation determines that an employee is unfit for duty.)
- c. In general, courts have been quite affirming of a public safety department's right and obligation to refer employees for a fitness for duty evaluation if there is reasonable cause for concern about the employees' ability to function safely or effectively.
- d. Behaviors that provide a reasonable basis on which to order a fitness for duty evaluation typically include, but are not limited to:
 - Domestic violence
 - Excessive absenteeism or tardiness
 - Rapid variations in mood
 - Making threats of physical harm to self or others
 - Allegations of sexual misconduct
 - Accusations of excessive force
 - Concerns regarding emotional stability after a critical incident
- e. Sworn members claiming or diagnosed as having a stress problem or disorder can expect to be psychologically evaluated. Each situation must be judged on a case-by-case basis.
- f. Employees suspected of substance abuse shall be evaluated within the context of the New Jersey Attorney General Law Enforcement Guideline on Law Enforcement Drug Testing and Directive 1:11 – Law Enforcement Drug Testing and can expect to be physically and medically evaluated and tested.
- g. Where a medical and/or psychological examination is ordered by the department, the examination shall be provided at no cost to the employee.
- h. Once ordered to a fitness for duty examination, the employee must comply with the order or face disciplinary consequences.
- i. Possible outcomes for fitness for duty evaluations include:
 - Not fit for duty
 - Fit for duty provisionally
 - Fit for duty

PROCEDURES

- a. A department employee may be referred for a Fitness for Duty Evaluation whenever there is reason to believe the employee's behavior and/or conduct is such that the employee's psychological fitness to perform his or her assigned duties is questioned. This also includes possible medical issues either identified by the employee or the department which may affect the employee's ability to perform his/her assigned duties.
- b. Only licensed mental health professionals, with experience in consulting with law enforcement, shall be used to conduct the evaluation.
- c. A Fitness for Duty Evaluation may be conducted upon referral of an employee's supervisor. The employee's supervisor shall make such recommendation to the employee's bureau or division commander or authority within the chain of command and provide written documentation detailing the reasons for the referral. The commander receiving the referral shall approve or deny the referral based on a review of the referral and consultation with the Commander of the Professional Standards Division (PSD Commander). The PSD Commander will consult with the Chief of University Police regarding the request.
- d. After approval, the PSD Commander should contact the University Human Resources and Occupational Health Departments relating to the requests, as appropriate. Scheduling will be done by the PSD Commander in consultation with the Commander for the division to which the employee is assigned. All communications with medical providers will be made through the PSD Commander, unless otherwise directed by the EDPS/CUPD.
- e. Upon referral, the employee's participation in the evaluation is mandatory. The employee will be expected to cooperate fully, including signing release forms for the evaluator to obtain any relevant records (including medical and mental health records). In addition, the employee will cooperate with the evaluator in obtaining any relevant collateral information. Any employee who refuses to participate or who fails to cooperate with the department designated mental health or medical professional shall be subject to Disciplinary Action in accordance with Directive 1:14.
- f. The employee will be advised that the evaluation is at the request of the Department. Confidentiality applies only in the respect that it is a medical record; therefore, the evaluation shall be reviewed by the Chief of University Police, or designee, as is necessary to determine the employee's fitness for duty.
- g. Fitness for duty evaluations will include but are not limited to: clinical interviewing of the employee, relevant psychological testing, physical examination and other recommended testing.
 1. The PSD Commander or designee will provide the evaluator with relevant information from the employee's personnel and/or internal affairs file.
 2. In any fitness for duty evaluation, the following factors may be reviewed along with any other relevant issues to include but not limited to the following: The employee's cognitive flexibility, emotional control, lawful behavior, ability to command respect, judgment, interpersonal skills, communication skills, attendance, disciplinary history, history of internal complaints and the employee's physical and/or mental ability to perform his/her assigned duties.

3. Release of any information in the files shall be at the discretion of the Chief of University Police, Deputy Chief of University Police or designee and in accordance with the Health Insurance Portability and Accountability Act (HIPAA), where applicable. Any documentation received by the department relating to a Fitness for Duty Evaluation shall be kept in the employee's confidential medical file maintained within the Professional Standards Division.
- h. The costs of any fitness evaluation will be borne by the department.
- i. Fitness for duty evaluations and associated documentation shall be maintained within employee's confidential medical files under the control of the PSD commander.

3:21-5 TAKING MEDICATION

- a. Department employees shall not take any prescription medications, which may diminish their alertness or impair their senses or may reasonably be assumed to affect the fundamental ability of the employee to perform the essential functions of their job in a safe and effective manner prior to or after reporting for duty.
- b. Employees shall not take prescription medication which is not specifically written in their name or which is prescribed to someone other than themselves.
- c. Employees shall not take prescription medication after the prescription has expired. For the purposes of this section, medication is considered to be expired once it is beyond one year of its prescription date; unless otherwise indicated.

3:21-6 MEDICATION DISCLOSURE

- a. It is the professional duty of the employee to direct his/her physician or health care provider to provide the University Physician as soon as possible and in a confidential manner with information regarding any prescription medication that may reasonably be assumed to affect the fundamental ability of the employee to perform the essential functions of his/her job in a safe and effective manner (this is to include prescription medication for both long and short term illnesses).
 1. Such information may include, but is not limited to, issues related to the impairment of social judgment, impulsivity, reaction time and/or vision or hearing problems related to illness or impairment or the use of prescription medications that may be reasonably expected to cause sedation, inhibition of normal behavior, disinhibition of impulses, impairment of restorative sleep and/or disruption of memory efficiency.
 2. This notification is required for prescription medication which may diminish the employee's alertness or impair his/her senses or prescription medication used in conjunction with over-the-counter medication.
 3. This notification shall be by the prescribing physician or health care provider using the Rutgers University Police Department Medication Disclosure Form. (Attachment A). The notification shall include the medication required, dosage, amount and frequency of administration, the period during which the employee is required to take the medication and a copy of the prescription information fact sheet.

- b. This notification shall be forwarded to the University Physician for review. The required notification shall be made if possible at least four (4) hours prior to the employee reporting for duty. The information so provided shall be confidential.
- c. In the event that an employee is called to duty outside of his/her normal work schedule, and the employee has recently lawfully taken a prescription medication that may reasonably be assumed to affect the fundamental ability of the employee to perform the essential functions of his/her job in a safe and effective manner the employee is expected to acknowledge such at the time he/she is called to report for duty. Such employee must complete a Rutgers University Police Department Medication Disclosure Form and forward it to the University Physician immediately upon return to duty. No disciplinary action will be taken against such an employee who refuses a call to report for duty outside normal working hours due to the use of medication that is required for the employee for medical reasons upon adequate completion of the Rutgers University Police Department Medication Disclosure Form. A failure to submit the Rutgers University Police Department Medication Disclosure Form may result in disciplinary action.
- d. If the University Physician concludes that an employee who is taking prescription medication should be removed from his/her current assignment because that prescription may diminish his/her alertness or impair his/her senses, the Department may arrange for a Temporary Light Duty Assignment after being so notified of that conclusion by the University physician pursuant to Department Directive 3:4 – Temporary Light Duty and relevant collective negotiated agreement, where applicable.
- e. If it is determined by the University Physician that the employee should be removed from their current assignment the EDPS/CUPD and PSD Commander will be notified. If a modified assignment is not available, the Department may place the employee on a leave of absence or the employee may take paid time off as available.
- f. The employee may, at his/her expense obtain a second doctor's opinion concerning fitness for duty, and if that physician clears the employee for full duty, the University, at its expense shall obtain a third opinion on fitness for duty from a physician selected by the parties. If that physician concludes that the employee is fit for duty, he/she shall be returned to full duty immediately with no deduction of paid time off.
- g. The Department encourages employees to seek assistance voluntarily for questions or problems related to the abuse of over-the-counter or prescription medication without fear of job loss for seeking such assistance. The University's Employee Assistance Programs are available and a confidential resource for seeking assistance, assessment or referrals. Seeking assistance for such issues, however, does not excuse an employee from violation of the Department's rules regarding drugs or this policy.

3:21-7 AMERICANS WITH DISABILITIES ACT – INTERACTIVE PROCESS

When an employee of this department suffers an injury, illness or medical condition which renders the employee permanently disabled and unable to perform the essential functions of their respective job classification without accommodation, a review of all pertinent information and documentation will be

conducted to determine if there are any reasonable accommodations that can be made. This department is committed to engaging in an interactive process with permanently disabled employees in order to determine whether or not reasonable accommodation is possible.

RUTGERS UNIVERSITY POLICE DEPARTMENT

MEDICATION DISCLOSURE FORM

It is the professional duty of the employee to direct his/her physician or health care provider to provide the University Physician as soon as possible and in a confidential manner with information regarding any prescription medication that may reasonably be assumed to affect the fundamental ability of the employee to perform the essential functions of his/her job in a safe and effective manner (this is to include prescription medication for both long and short term illnesses).

Any employee taking prescribed medication which may reasonably be assumed to affect the fundamental ability of the employee to perform the essential functions of his/her job in a safe and effective manner shall have his/her physician notify the University Physician of the medication required, the dosage, and the frequency and length of time that the employee is required to take such medication.

In compliance with the above directive each employee through his/her physician to the University's Physician shall disclose any prescription medication that may affect their ability to perform the essential tasks of their job description. This includes any medication that may cause the following side effects: impairment of judgment, cognition, memory, reaction time, sleep, vision, or hearing; impulsivity; sedation; depression; anxiety; psychosis; and inhibition of normal behavior. These medications include, but are not limited to narcotics, stimulants, psychotropics, antidepressants and antipsychotic drugs. Please provide a listing of such medications(s) below.

Name of Medication	Prescribing Physician/ Health Care Provider	Dosage	Date Last Taken	Expected Date of Completion

All information provided is to be kept in strict confidentiality. Upon completion of the above, this form is to be sealed in an envelope and addressed directly to the University Occupational Health Department – Attention Director / Hurtado Health Center / 11 Bishop Place / New Brunswick, New Jersey 08901. It may also be faxed to that office at (732) 932-7199. The University Physician may follow up with any employee of the police department who discloses that he or she may be taking a medication that potentially affects the employee's ability to perform the essential tasks of his/her job function for further evaluation. Failure to disclose such information may be grounds for potential disciplinary action.

Employee Name (Printed): _____ Pin: _____

Contact Phone: _____ Email: _____

Employee Signature: _____ Date: _____

Prescribing Physician/Health Care Provider: (Printed): _____

Contact Phone: _____

Prescribing Physician/
Health Care Provider: (signature): _____ Date: _____

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