ABILITY TO WORK

I. PURPOSE

This policy recognizes the fact that occasionally an employee’s job performance or personal conduct may give reasonable cause to believe that a physical or mental condition adversely affects the employee’s ability to perform his or her job or poses a threat to the safety of the employee or others. Both the employer and employee may invoke this policy which attempts to establish the rights and obligations of both the parties in such situations, as well as attending to the rights of those served by the University.

II. SCOPE

Problems and concerns covered by this policy may fall under the provisions of the Americans with Disabilities Act but this policy is not confined to cases arising under the provisions of that law. Whereas ADA covers only permanent disabilities substantially limiting one or more of the major life activities of an individual, the intent of this policy is to cover all types of impairment, including those that may be of a temporary effect.

III. SPECIAL CONSIDERATIONS FOR FACULTY MEMBERS

Faculty members have a special status and rights stemming from the University’s Statutes, from the application of provisions for academic freedom, and from the role of faculty members in academic governance and therefore must be protected against the inappropriate application of sanctions. To the extent that there is an administrative interest in such a policy, it is involved in the obligation of administrators to insure, for example, that there is a qualified faculty member teaching a course without disruption either to the education of students or to the teaching activities of other faculty members.

IV. RIGHTS AND OBLIGATIONS OF EMPLOYEE

1. The employee shall incur no loss of pay or benefits while the administrative evaluation process is underway until and unless official action is taken to alter the employee’s employment status.

2. Nothing in this policy overrides rights provided to employees by the University’s Statutes.
or other applicable contracts or policies, including the right to griev or appeal the application of this policy under applicable grievance procedures.

V. RIGHTS AND OBLIGATIONS OF EMPLOYER

1. The costs of the exams by the health care providers designated by the University and the associated costs will be borne by the University, and not the employee.

2. If the outcome of the evaluation is Able to Work with Limitations (see Section VI. 3. below) the University shall make reasonable efforts to accommodate those limitations.

VI. PROCEDURES

1. EVALUATION

An employee of the University may be required or request to be examined by appropriate licensed/certified health care professional(s) designated by the University in order to determine her/his ability to perform assigned duties and responsibilities.

Such an evaluation may be required when the appropriate Vice Chancellor, in consultation with the unit executive officer through appropriate reporting channels, determines that the employee=s job performance or personal conduct gives reasonable cause to believe that a physical or mental condition adversely affects the employee=s ability to perform his or her duties or poses a threat to the safety of the employee or others.

2. PROCESS

A unit executive officer may request that this policy be invoked for a particular employee, or an employee may invoke this policy for him or herself by notifying, through the appropriate channels, the Vice Chancellor in the employee=s reporting line of the facts suggesting a need for an administrative evaluation. The Vice Chancellor shall review the request insuring that the unit executive officer has documented: 1) that an ability to work problem may exist, 2) that the unit and the employee have been involved in efforts to resolve the problem, and 3) that a satisfactory resolution has not been achieved. Attempts must be made to resolve the problem at the level at which the University employee carries out his/her primary professional duties, normally the unit in which he or she is appointed. These procedures are not intended to prevent the University employee or the unit executive officer from seeking other recourse as provided by unit bylaws (if any) or University procedures.

If the Vice Chancellor concurs that an evaluation is appropriate, the Vice Chancellor will ask the Coordinator appointed by the Vice Chancellor for this policy to take the following steps:

a) advise the unit administrator on the assembly and preparation of background
documents necessary for the evaluation;

b) inform the employee in writing that an administrative evaluation is being required and provide information on the employee=s and employer=s rights and obligations under this policy;

c) prepare a list of between five and ten names of appropriate health-care professionals not affiliated with the University for the administrative evaluation process. The person to be evaluated, or in the event that the person is unable or unwilling, another person with legal authority to make health-care decisions for the person to be evaluated, shall select from the list the health-care professional(s) to perform the evaluation. If the person to be evaluated or his or her designee has not selected the health-care professional(s) to perform the evaluation within two weeks following receipt of the list of health-care professionals, the Coordinator will select the health-care professional(s) to perform the evaluation and inform the person to be evaluated of the selection.

d) inform the employee of the time and place of the required evaluation; and

e) forward to the Vice Chancellor, unit executive officer, and employee a report specifying the focus, the method, the results and the conclusion of a examination, relative to the employee=s ability to work. The employee may request a second evaluation from the above list.

3. OUTCOME OF THE EVALUATION
The Vice Chancellor shall review all the materials and make the final determination as to the outcome of the administrative evaluation which will include one of the following: able to work without limitations; able to work with limitations; unable to work.

*Able to work without limitations:* If the administrative evaluation determines that the employee is able to work without limitations, the employee and the unit will be notified by the Coordinator.

*Able to work with limitations:* If the administrative evaluation determines that the employee is able to work with limitations, the Coordinator will notify the employee and determine the conditions and requirements for continued employment in consultation with the employee and the employing unit. Conditions may include continued treatment (and monitoring of that treatment) and/or other arrangements as agreed by the Coordinator and the employee and the Vice Chancellor. The administration will consult and work with the unit regarding the workload implications of these decisions.

*Unable to work:* If the administrative evaluation determines that the employee is not able to work, the Coordinator will notify the unit and work with the employee as to her or his options, which will include, but are not limited to, application for disability benefits through SURA, leave of absence without pay, use of sick leave, resignation, dismissal, or other solutions which are agreeable to the Coordinator, employee, and Vice Chancellor. The administration will consult and work with the unit regarding the workload implications of these decisions.
4. RETURN TO WORK

If the administrative evaluation results in a finding that the employee is not fit to work and the employee takes a leave of absence or uses sick leave, a follow-up evaluation will be required to certify the employee’s ability to return to work.

5. CONFIDENTIALITY AND ACCESS TO INFORMATION

Reports and other information about the evaluation and any follow-up treatments shall be kept by the Coordinator and will not be included in the employee’s personnel file. Upon written request, the employee may inspect report(s) by designated health-care professional(s). The Coordinator will provide those in the employee’s reporting chain with only that information about the employee’s condition necessary for the proper supervision of the employee. In the event of the initiation of an appeals process, the hearing group will be provided access to any materials related to the evaluation with the agreement of the employee.

VII. ASSISTANCE

For questions about this policy, please call the Office of Academic Human Resources (academic professional employees), the Office of Personnel Services (civil service employees) or the Office of the Provost (faculty members).