

Faculty Fitness Panel Background and Context

This policy was developed in order to provide a clear pathway for addressing issues and questions that arise about a faculty member's ability to fulfill his/her/their professional obligations. It is part of an Office of the Provost initiative that seeks to strengthen institutional supports and processes related to faculty well-being and conduct to enable all faculty members to do their best work in a healthy and empowering environment. A study conducted as part of the initiative, which included interviews with chairs, dean's office administrators, and central administrators, identified gaps in the University policy infrastructure governing faculty fitness for duty, misconduct, and disciplinary action. This policy, in tandem with concurrent revisions to the Faculty Handbook in 2018, seeks to address the identified gaps. It was developed with input from Faculty Senate leadership, the Dean's Council, and the Faculty Senate, and is designed to align with the procedures of the Faculty Handbook.

The goals of the policy are to:

- Act quickly, responsibly, and transparently in cases of faculty impairment.
- Ensure all faculty members are treated fairly and generously in a way that honors freedom of expression and academic freedom.
- Provide a framework and process that clearly describes the role, authority, and resources of department, school, and central administrators.
- Protect both the Northwestern community as well as faculty members who may show signs of physical or personal impairment, disruptive behavior, or inability to perform essential functions.
- Engage administrators and faculty at multiple levels and with different perspectives (for example, Faculty Fitness Panel members, Director of the Faculty Wellness Program, Associate Provost for Faculty, Deans, etc.) in order to foster a collaborative approach and to balance decision-making authority.

When concerns arise about a faculty member's ability to fulfill his/her/their professional obligations, this policy is intended to be used as a last resort once all other means of resolution have been exhausted. Department and school administrators should first seek to resolve issues informally before recommending/referring cases to the Faculty Fitness Panel. In the meantime, the Assistant Provost for Faculty can provide guidance on individual cases. This policy seeks to address issues of significant physical and personal impairment, disruptive behavior, or inability to perform essential functions; other issues of faculty performance or discipline should be addressed through school-level management of performance or the disciplinary process outlined in the [Faculty Handbook](#), as appropriate.

This policy will be reviewed periodically by the Office of the Provost to ensure that it continues to meet its intended goals and purpose.

Policy on Faculty Fitness Panel

Overview

The goal of the Faculty Fitness Panel (FFP) is to protect members of the University community and to provide appropriate resources for faculty members who are in need of assistance. The primary function of the FFP is to determine whether a fitness for duty evaluation of the faculty member's ability to fulfill his/her/their professional duties is warranted, based on the concern that the faculty member may be significantly physically or personally impaired or disruptive, a threat to self or others, or unable to fulfill essential functions of his/her/their professional role due to impairment. Parties are expected to facilitate all steps of the referral, review, evaluation, and follow-up procedures as expeditiously as possible.

Definitions

- *Physical impairment* usually takes the form of significant medical/health problems or physical decline.
- *Personal impairment* usually takes the form of mental health problems, substance abuse, or cognitive impairment. This may or may not involve a risk of violence to self or others. Situations of risk of violence should be reported immediately to the [Behavioral Consultation Team \(BCT\)](#).
- *Disruptive behavior* typically includes violations of the University's [Policy on Civility and Mutual Respect](#) and/or the [Faculty Handbook](#). Disruptive behavior is demeaning, intimidating, threatening, bullying, or violent behavior that either (1) unreasonably impedes other community members from exercising their professional responsibilities or pursuing their educational goals or (2) creates what a reasonable person would perceive as an intimidating, hostile, or offensive environment.
- *Inability to fulfill a faculty member's professional role/responsibilities* may relate to teaching, research, mentorship, administrative or other roles, and may be intentional or unintentional.

Threats of violence to self or others should be referred first to the BCT and then to the FFP.

While the FFP cannot directly mandate interventions other than a fitness for duty evaluation, it may make other recommendations to the dean of the faculty member's school, such as:

- Recommendations for education, remediation, coaching, or other forms of assistance for the faculty member
- Recommendations for consideration of retirement
- Recommendations for limitations on the faculty member's activities for the protection of the faculty member and/or the University community
- Referral to the Behavioral Consultation Team for a threat assessment
- Referral to the appropriate school for disciplinary action
- Referral to the Office of Civil Rights and Title IX Compliance for investigation of potential violations of the Policy on Discrimination, Harassment, and Sexual Misconduct
- Referral to the Office for Research for cases of research misconduct

Northwestern is firmly committed to free expression and academic freedom. The University is equally committed to creating and maintaining a safe, healthy, and harassment-free environment for all members of its community and firmly believes that these two legitimate interests can coexist. Discrimination, harassment, retaliation, abusive behavior, or threatening behavior against members of the Northwestern community are not protected expression or the proper exercise of academic freedom. The University will uphold academic freedom in the examination of reports of disruptive or hostile behavior.

Fitness Panel Members

The panel will serve on an as-needed basis to assess a specific situation, i.e., it will not meet on routine schedule. The Associate Provost for Faculty or designee will serve as the Chair of the FFP. For each case, the FFP chair will convene a panel. The FFP will have five standing members as well as ad hoc members, who will depend on the academic unit and the nature of the referral. Additional staff will serve as regular consultants to the panel, including a member of the Office of General Counsel.

The Faculty Senate will identify a small pool of faculty members to serve on the FFP for staggered, three-year terms. The Associate Provost for Faculty will identify a small pool of Associate Deans for Faculty to serve on the FFP for staggered, three year terms. For each case, the FFP chair will identify two faculty members and one associate dean from the respective pools, choosing whenever possible people who do not come from the same school as the faculty member in question and aiming to avoid potential conflicts of interest. Only standing members will have a vote on the panel, if one is needed. Appropriate training will be provided for all panel members. Thus, for each case, the FFP will include the following members:

Standing members

- Chair, Associate Provost for Faculty or designee
- Director of the Faculty Wellness Program
- Associate Dean for Faculty
- Two faculty members

Ad hoc members- included as needed

- Relevant department chair or division chief
- Relevant school dean or designee
- The Graduate School representative
- Office for Research representative

Consultants- consulted as needed

- Representative from the Office of General Counsel for legal counsel
- Behavioral Consultation Team chair or designee for threat assessment counsel
- Representative from the Office of Human Resources for employment issues (e.g., disability)
- Representative from the Office of Civil Rights, if a case involving discrimination or harassment

Referrals

Recommendations for referral of a faculty member for review by the FFP can be made to the dean of the faculty member's school or to the Associate Provost for Faculty (APF). Recommendations for referrals could come from the following sources:

- Department chair, division chief, dean, or associate dean for faculty
- Behavioral Consultation Team
- Faculty Wellness Program
- Human Resources
- Office of Civil Rights and Title IX Compliance
- Office of the Provost

Recommendations for referrals will not be taken from the university community at-large. Individuals who are concerned that a fitness for duty evaluation may be warranted should consult with one of the above sources.

The University's [Policy on Non-Retaliation](#) prohibits retaliation against any member of its community for making a good faith recommendation to the dean or APF, providing information in connection with a recommendation or referral, or otherwise participating, in good faith, in the panel's work.

At the discretion of the dean or APF, a referral is made to the FFP. The FFP chair consults with the dean, who notifies the faculty member that the referral has been made. The dean can mandate temporary limitations on the faculty member's activities for the duration of the review process, for the protection of the faculty member and/or the University community. However, the faculty member will not lose salary or benefits during the referral and review process.

Before making a referral to the FFP, the dean or APF should work with the faculty member to resolve the situation informally. The dean or APF should address the situation with the faculty member and provide the faculty member an opportunity to meet with the dean and/or APF and to present documentation of medical or psychological conditions that may be contributing to the faculty member's performance or behavior. Such information may serve as a basis for reasonable workplace accommodations or for voluntary medical leave to remedy the problem.

Referral Criteria

Criteria for making a referral will be reasonable concern that a faculty member:

- is **physically or personally impaired** in a way that creates safety risk for the faculty member or for the university community, including a threat of harm to self or others; or
- shows significantly **disruptive behavior**; or
- is **unable to perform essential functions** appropriate to his/her/their professional role due to impairment.

See definitions section above.

Review Process

The FFP receives and reviews a referral from the dean or APF and determines whether it warrants a mandated fitness evaluation, based on the referral criteria defined above. The panel will review the referral process to ensure it was followed appropriately. In advance of discussing a case, the FFP chair:

- Conducts interviews with the faculty member of concern and other faculty, students, and staff directly involved, and
- Gathers relevant documents from the faculty member of concern and other University entities (e.g., Office of Civil Rights, HR, BCT), such as complaints of misconduct and performance evaluations.

The goal of the data gathering is to synthesize information from various perspectives on whether a fitness evaluation is warranted. Note, the sources of such information may not be confidential. For the protection of faculty members as well as those making referrals or otherwise participating in the panel's work, the work of the FFP will be treated as confidential to the degree possible. Information relating to the panel's work may be shared only on a need-to-know basis or as legally required.

The FFP chair will convene a meeting of the panel to review and make a decision on the need for a fitness evaluation. The chair will present the information and lead the discussion of the case.

The decisions of the FFP will be based on discussion and consensus. If consensus is not possible, the decision for a mandatory fitness evaluation will be made by a simple majority vote of the five standing members of the panel. The decision of the FFP will be conveyed in writing by the FFP chair to the dean of the appropriate school who will promptly provide written notice to the faculty member.

If the FFP determines that a fitness evaluation is not necessary, the FFP can make other recommendations, as outlined above. The dean can mandate ongoing monitoring of the faculty member's behavior or performance or take appropriate disciplinary action in accordance with relevant University procedures and subject to relevant appeals processes outlined in the Faculty Handbook. If the dean decides that no further action is necessary, the faculty member resumes his/her/their professional duties.

Fitness Evaluations

If the FFP determines that a fitness evaluation is necessary, the faculty member and his/her/their dean will be notified by the FFP chair of the purpose and timing in advance of the evaluation. The FFP chair will facilitate the process of the evaluation with the evaluator and the faculty member. This will include providing the fitness evaluator with information obtained in the review of the faculty member. The fitness for duty evaluation will be conducted by a healthcare professional. The University will select and pay for a qualified fitness evaluator to conduct an evaluation and to make recommendations concerning the faculty member's fitness for duty.

After the fitness evaluation, the evaluator will prepare and send a written report that will go to the FFP chair, the dean of the appropriate school, and the APF or designee. The dean informs the faculty member of the outcome of the evaluation.

If a faculty member refuses to undergo a fitness evaluation in a reasonable or prescribed timeframe, the dean may take appropriate disciplinary action, in accordance with the relevant University procedures and subject to relevant appeals processes outlined in the Faculty Handbook.

Follow-up

If a faculty member is determined to be fit for professional duty by the evaluator, the FFP can make other recommendations, as outlined above. The dean can mandate ongoing monitoring of the faculty member's behavior or performance or take appropriate disciplinary action in accordance with relevant University procedures and subject to relevant appeals processes outlined in the Faculty Handbook. If the dean decides that no further action is necessary, the faculty member resumes his/her/their professional duties.

If a faculty member is determined to be unfit for professional duty by the evaluator, said faculty member may not engage in professional duties at the University, unless specified. Based on the evaluator's written report, an intervention plan will be developed by the dean, the APF or designee, and the FFP chair, in consultation with the appropriate University offices. The intervention plan will be communicated to the faculty member by the dean. The faculty member will be expected to follow through on the intervention plan in a reasonable or prescribed timeframe. The faculty member may be eligible for a leave of absence while completing the intervention plan.

Return to Duty

Once the faculty member believes the required intervention plan has been successfully completed, he/she/they may apply for approval to return to duty by making a request to the dean or to the APF. The dean or APF refers the request to the FFP to determine if the faculty member has successfully completed the intervention plan and is ready for a follow-up fitness evaluation.

The FFP chair will collect information from appropriate sources and convene a meeting of the panel to determine whether a fitness re-evaluation is warranted. The chair will present the information and lead the discussion of the case. The decisions of the FFP will be based on discussion and consensus. If consensus is not possible, the decision regarding a fitness re-evaluation will be made by a simple majority vote of the five standing members of the panel. The decision of the FFP will be conveyed in writing by the FFP chair to the dean of the appropriate school who will promptly provide written notice to the faculty member.

If the FFP determines that the faculty member has completed the intervention plan in a reasonable or prescribed timeframe, the FFP chair will facilitate the process of the fitness re-evaluation. The faculty member will be notified by the FFP chair of the purpose and time of evaluation to be performed, in advance of the scheduled evaluation. The fitness for duty re-evaluation will be conducted by a healthcare professional, who should be the same evaluator who conducted the initial fitness evaluation,

if possible. The University will select the evaluator and will pay for the re-evaluation.

After the fitness re-evaluation, the evaluator will prepare and send a written report that will go to the FFP chair, the dean, and the APF. The dean will inform the faculty member of the outcome of the re-evaluation.

If a faculty member is determined to be fit for professional duty by the evaluator, the FFP chair recommends approval to return to duty to the APF, who makes a decision in consultation with the dean and FFP chair. The FFP can make other recommendations, as outlined above. The dean communicates the approval to return to duty to the faculty member. The dean can also mandate ongoing monitoring of the faculty member's behavior or performance or take appropriate disciplinary action in accordance with relevant University procedures and subject to relevant appeals processes outlined in the Faculty Handbook. If the dean decides no further action is necessary, the faculty member resumes his/her/their professional duties.

If a faculty member is determined to be unfit for professional duty by the evaluator, said faculty member should not engage in professional duties at the University, unless specified. The FFP chair, dean, and APF will revisit the intervention plan and may modify it based on the fitness evaluator's report. The dean communicates the intervention plan to the faculty member.

If the FFP determines that the faculty member has not initiated or completed the intervention plan in a reasonable manner, the dean may take appropriate disciplinary action, in accordance with the relevant University procedures and subject to relevant appeals processes outlined in the Faculty Handbook.

Responsible Office: Office of the Provost

Who Needs to Know This Policy: All Northwestern faculty members

Contacts: If you have any questions on this Policy, contact facultyrecords@northwestern.edu.

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