



**FOR INFORMATION**

**PUBLIC**

**OPEN SESSION**

**TO:** Business Board

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**PRESENTER:** Same as above.  
**CONTACT INFO:**

**DATE:** June 7, 2018 for June 19, 2018

**AGENDA ITEM:** 8

**ITEM IDENTIFICATION:**

Human Resources Guideline on Fitness for Work - June 2018

**JURISDICTIONAL INFORMATION:**

This report is provided for information only. Business Board has jurisdiction over employee policies and terms and conditions of employment for administrative and unionized staff.

**GOVERNANCE PATH:**

**1. Business Board [for information] (June 19, 2018)**

**PREVIOUS ACTION TAKEN:**

None.

**HIGHLIGHTS:**

The Federal Government intends to pass legislation this month that would legalize recreational cannabis. The legislation, if passed, would likely take effect in fall 2018. Ontario law provides that consumption of recreational cannabis will not be permitted in any workplace within the meaning of the Occupational Health and Safety Act, or in any public place, which is broadly defined in the law. The laws pertaining to the use of medical cannabis remain unchanged.

A U of T working group was formed to assess the impact on the University of legalization of recreational cannabis. Use of cannabis creates a potential safety risk in the workplace, which also exists in relation to other intoxicating substances including alcohol, medication, and illegal drugs. To that end an HR guideline was developed – the Fitness for Work Guideline - to

provide awareness to our workforce on the impact of these substances and set consistent expectations for our workforce. The Fitness for Work Guideline imposes basic obligations on all employees, and particular obligations on employees in safety sensitive positions.

**FINANCIAL IMPLICATIONS :**

N/A

**RECOMMENDATION:**

N/A

**DOCUMENTATION PROVIDED:**

- *Human Resources Guideline on Fitness for Work (June 2018)*



## Human Resources Guideline on Fitness for Work

### Intent of Guideline

- The University of Toronto is committed to:
  - Providing a safe and healthy workplace for employees, students, and other community members.
  - Providing education and training to help employees, supervisors and managers identify behaviour and/or recognize warning signs that may indicate that they or another employee may not be fit for work, and respond appropriately.
  - Placing a priority on ensuring employees are fit to perform the duties of their positions.
  
- This guideline will be interpreted in accordance with all applicable laws, including but not limited to, the Ontario *Human Rights Code*, the *Occupational Health and Safety Act*, and any applicable collective agreement or employment contract. Further, the terms of this guideline are in addition to any legislative, regulatory, licensing, or other applicable legal requirements.

### Definitions

<b>Intoxicant</b>	Any substance, whether a substance identified by the <i>Controlled Drug and Substances Act</i> , SC 1996 c 19, an illegal substance or a non-prescription substance, which has the effect of intoxicating its user and/or altering an employee’s ability to perform assigned duties. This includes, but is not limited to, alcohol, opiates, hallucinogens and cannabinoids (e.g. cannabis). It also includes Medication (as defined below).
<b>Medication</b>	Any Intoxicant (defined above) that has been legally obtained with a physician or nurse practitioner’s prescription, or purchased as an over-the-counter medication (including medical cannabis).
<b>Fit for Work</b>	An employee is able to safely and acceptably perform assigned duties without limitation resulting from the use or after-effects of Intoxicants (whether a Medication or otherwise).
<b>Safety Sensitive Position</b>	A position in which impairment could result in direct risk of injury to any person, property (real or otherwise), or the environment. For example: operating machinery, vehicles or equipment; working with hazardous materials or in hazardous conditions; having responsibility for matters of life/death or the potential for serious harm to any person; being required to respond to human



	or operational emergencies; or other positions so defined by the University.
<b>Workplace</b>	Any site at which an employee is performing duties related to employment with the University of Toronto, including on University property and any other place an employee is located while acting as a University employee or while representing the University.

**Employee Obligations**

1. An employee is required to report to the Workplace Fit for Work and remain Fit for Work throughout the employee’s entire workday (including a telecommuting employee or employee attending a University event).
2. An employee is prohibited from using, distributing, manufacturing, offering or selling an Intoxicant at the Workplace (except pursuant to the Alcohol Policy and except for appropriate use of a Medication).
3. In the event that an employee in a Safety Sensitive Position is not Fit for Work, for example due to an Intoxicant (e.g. cannabis or alcohol), the employee must disclose this unfitness in accordance with the “requirement to Disclose” section below.
4. An employee who becomes aware of or witnesses behaviour giving rise to concerns about whether another employee is Fit for Work is required to advise a manager/supervisor.
5. Where an employee has a disability related to Intoxicant abuse or addiction, the employee is required to co-operate with the University in the accommodation process under the *Human Rights Code*, including by providing medical information sufficient to facilitate an accommodation investigation and by accepting reasonable accommodations proposed by the University.

**Manager & Supervisor Obligations**

6. Communicate with employees about the need to maintain a Workplace that is free from Intoxicant use (except where permitted for Medication). This includes answering questions about this Guideline.



7. Early and regular identification and management of performance issues that may be related to Intoxicant use and/or addiction/dependency.
8. Encourage employees to disclose any conditions or concerns, including Intoxicant use or addiction/dependency that may impair their job performance or compromise their or others health and safety.
9. Identify and address any situation where an employee appears to not be Fit for Work.
10. Prohibit, **without exception**, the continued performance of a Safety-Sensitive Position (including the operation of a motor vehicle or other equipment/machinery) by an employee who the supervisor or manager reasonably believes is not Fit for Work.
11. Any Intoxicant found in the Workplace which the manager or supervisor reasonably believes is, or may be, illegal, is required to be brought to the attention of campus police.

### **Requirement to Disclose for Employees in Safety Sensitive Positions**

12. An employee in a Safety Sensitive Position has a duty to disclose the use of or being under the influence of any Intoxicant at the Workplace that may result in the employee not being Fit for Work. For clarity, and without restricting the generality of the foregoing, this may include:
  - a. Disclosure of using or being under the influence of an Intoxicant (other than a Medication) at the Workplace;
  - b. Disclosure of using or being under the influence of a Medication that could reasonably impact the employee's ability to perform their duties and responsibilities; and/or
  - c. Disclosure of a disability relating to an Intoxicant (e.g., substance dependency or addiction) which could reasonably be expected to impact the employee's ability to remain Fit for Work.
13. Disclosure pursuant to subparagraph 12 a., above, may be to the employee's immediate supervisor or Health & Well-Being if the use or influence of an Intoxicant is not related to a disability.



14. Disclosure pursuant to subparagraphs 12 b. and c., above, must be to Health & Well-Being.
15. An employee who discloses use of an Intoxicant under this Guideline may be asked to perform modified duties, and/or to work with Health and Well-Being to develop an accommodation plan, or in some cases to temporarily leave work.

### **Accommodation**

16. The University will accommodate an employee who discloses a disability (e.g., substance dependency or the use of Medication) up to the point of undue hardship in accordance with the Ontario *Human Rights Code*.
17. Accommodation will be coordinated by Health & Well-Being.
18. Accommodation is based on the provision of appropriate supporting medical documentation and is subject to any applicable collective agreement or other contractual provision.
19. Modification to an employee's duties or removal of an employee from their current position may be necessary while accommodation needs are assessed and where appropriate, measures of accommodation implemented.

### **Addiction/Cessation Support**

20. An employee needing support for substance dependency or addiction shall be encouraged to seek professional care and support. This may be done through the Employee & Family Assistance Program (EFAP) (for employees who have access to EFAP), as well through Health & Well-Being.

### **Consequences of Failing to Follow Guideline**

21. An employee who fails to follow this guideline (including but not limited to: using or being under the influence of an Intoxicant at the Workplace except as permitted by the *Human Rights Code*; the failure to disclose; refusal to cooperate with the University in the accommodation processes; or presenting at the Workplace as safety risks to themselves and others) may be subject to discipline up to and including termination.



**Intersection with other policies and guidelines**

Alcohol Policy

Code of Student Conduct

Health & Safety Guidelines

Smoke-Free Policy [pending]