
DEPARTMENT OF ADMINISTRATION
DRUG-FREE
WORKPLACE
PROGRAM (DFWP)

***EMPLOYEE
ASSISTANCE
PROGRAM***

EMPLOYEE ASSISTANCE PROGRAM

PURPOSE	3
COVERAGE	3
POLICY	3
PROCEDURE.....	4
DEFINITIONS.....	4
RESPONSIBILITIES.....	6
Director of Administration	6
Appointing Authorities	6
Supervisors	6
PROGRAM ADMINISTRATION	7
General	7
Illegal Drug Use Problem	7
Relationship to Discipline	8
Voluntary Employee Referral	9
EAP Administration and Functions	9
Training and Education	11
Relationship with Labor Organizations	12

EMPLOYEE ASSISTANCE PROGRAM

PURPOSE

To establish the Director of Administration policy and procedures on the conduct of the Employee Assistance Program (EAP), and to provide guidance for implementing the policy and assign responsibility for the administration of the program.

COVERAGE

This procedure applies to classified employees in the line and non-autonomous agencies and departments. Appointing authorities shall appoint collateral duty EAP counselors and ensure that the counselors are given adequate training and sufficient time to perform their duties. Agency heads shall make sure that the provisions of the EAP are made available to all employees through services provided by EAP counselors and the EAP Administrator designated by the Director of Administration.

POLICY

It is the policy of the Director of Administration to assist employees in overcoming performance or conduct deficiencies caused by misuse of drugs or alcohol or by other personal problems.

1. The program will provide problem identification and preventive counseling and referral to local community agencies for treatment, rehabilitation or other assistance. The EAP shall not include treatment or rehabilitation. Employees are responsible for all costs of treatment and rehabilitation.
2. Alcoholism and drug abuse or dependency are health problems in which the employee's job performance is impaired as a direct consequence. Employees having these illnesses will receive the same consideration and offer of assistance that is extended to employees having other illnesses or health problems.
3. Employees will refrain from the abuse of all drugs and will report for duty not under the influence of alcohol or drugs. Employees are responsible for seeking assistance through EAP to overcome alcohol, drug, or other personal problems which are adversely impacting on their performance and will cooperate with supervisors and EAP counselors in matters relating to the program. Employment or promotion opportunities will not be jeopardized because of prior alcohol or drug misuse/abuse or by a request for counseling or referral assistance, except as limited by law.

4. The confidential nature of client records will be safeguarded and information therein shall not be disclosed except as provided by the confidentiality of medical records and examinations provisions of the American with Disabilities Act of 1990.
5. To the extent feasible, EAP assistance will be provided to the employee with a family member with who has personal problems. Sick leave, annual leave or leave without pay shall be granted for alcohol or drug abuse treatment or rehabilitation as with any other illness or health problem. When an employee participates in treatment of a condition personal to the employee, including alcoholism or drug misuse/abuse by a member of the employee's immediate household where family therapy is an element of the treatment regimen, sick leave is appropriate.
6. Employee referral to or participation in EAP will be based on job or performance related factors. It will not be based on any prohibited personnel practice or action that would constitute a finding of overt or presumptive discrimination on the grounds of race, color, sex, age, physical or mental disability, religion or national origin.

PROCEDURE

Appointing authorities and all levels of management shall support the program as necessary to ensure program effectiveness. Agencies may contract individually or collectively for the provision of EAP services. Contracts may provide counseling services (including problem identification), referral for treatment or rehabilitation and follow-up to aid in effective readjustment to the job. Employees are responsible for any costs of treatment and rehabilitation.

DEFINITIONS

The following definitions are only for the administration of the Employee Assistance Program. They are not intended to modify or influence definitions applicable to statutory provisions and regulations which relate to disability benefits or criminal or civil responsibility for an individual's actions or omissions.

1. **Agency.** Department of Administration and all line and non-autonomous agencies and departments.
2. **Alcohol Abuse.** Use of alcohol or an extent that it has an adverse effect on performance, conduct, discipline, or mission effectiveness and/or the user's health, behavior, family, or community.
3. **Alcohol and Drug Dependence.** The reliance on alcohol (alcoholism) or drugs following use on a periodic or continuing basis. Dependence may be psychological or physical or both. Dependency must be determined by a licensed physician, medical officer, or clinical psychologist.

4. **Employee Assistance Program (EAP).** A program offering assistance to employees who have problems involving alcoholism, drug abuse, or other personal problems which result in or may contribute to deficiencies in job performance or conduct.
5. **EAP Counselor.** An individual designated to conduct the initial interview with an employee, explain the provisions of the EAP, determine the nature of the personal problem, and refer the employee to a source of assistance located within the local community.
6. **Drug Abuse.** Use of a drug to an extent that it has an adverse effect on performance, conduct, discipline, or mission effectiveness, and/or the user's health, behavior, family or community. The wrongful or illegal possession or use of drugs in any amount also constitutes drug abuse.
7. **Person with Disability.** One who has a physical or mental impairment which substantially limits one or more of the person's major life activities (including working), has a record of such impairment, or is regarded as having such an impairment.
8. **Qualified Person with Disability.** With respect to employment, a person with disability who, with or without reasonable accommodation, can perform the essential functions of the position in question without endangering the health and safety of the individual or others and who meets the experience and/or education requirement (which may include a written test of the position in question or meets the criteria for appointment under special appointment for persons with disabilities).
9. **Reasonable Accommodation.** With respect to any employee who establishes that his or her deficient performance or conduct is caused by a physical or mental impairment, reasonable accommodation is the referral to EAP for diagnostic counseling and referral for treatment or rehabilitation or other assistance and a reasonable opportunity to demonstrate minimally acceptable performance or conduct.
10. **Rehabilitation.** The process of restoring to effective functioning those individuals who have been impaired by alcoholism, drug addiction, or other dependencies. Rehabilitation occurs after treatment has been completed and may be in a clinical or non-clinical setting. Ordinarily, rehabilitation involves individual or group counseling or participation in self-help organizations such as Alcohols and Narcotics Anonymous.
11. **Trafficking.** The wrongful distribution (including sale or transfer) of a controlled substance, and/or the wrongful possession or introduction into workplace of a controlled substance with intent to distribute. Trafficking of drugs is misconduct which does not confer an entitlement to reasonable accommodation under EAP and must result in corrective action in accordance with disciplinary procedures of the Personnel Rules and Regulations.

12. **Treatment.** The process of alleviating the physical and psychological effects of substance abuse, including withdrawal symptoms and medical conditions resulting from substance abuse. Treatment is always under medical supervision. It is a prelude to, and should not be confused with rehabilitation.

RESPONSIBILITIES

1. **Director of Administration.** Responsible to provide advice and assistance to the agency heads and EAP officials in the implementation of the EAP including the dissemination of policy and guidance for the administration of the program.
2. **Appointing Authorities.** Responsible to ensure the EAP within their agency is consistent with requirements of the Department of Administration procedures for Employee Assistance Program and the Drug-Free Workplace Program; provide recurring publicity about the program, training of EAP counselors and all supervisors, and ensure EAP services are available to all employees.
3. **Supervisors shall:**
 - a. identify and document instances of deficient work performance or conduct, with special attention directed to patterns of performance deterioration.
 - b. discuss performance or conduct deficiencies with the employee and refer the employee to the EAP counselor if, in their opinion, the noted deficiencies may be caused by a personal problem such as alcohol or drug abuse, family problems, etc. Referrals shall be made in writing or otherwise documented by the supervisor. If formal corrective action is not being proposed for the conduct or performance deficiencies, the supervisor should advise the employee that conduct or performance must be raised to an acceptable level or corrective action will be initiated. The supervisor must discuss the choice facing the employee to raise performance or conduct to an acceptable level or face corrective action to deal with continued performance or conduct deficiencies.
 - c. refrain from diagnosing employee problems, but should be alert to indications of personal problems, including alcohol or drug abuse.
 - d. refrain from ordering an employee to undergo a medical examination for the purpose of determining his or her fitness for duty. Follow the Personnel Rules and Regulations regarding special medical examinations. Seek the assistance of the Division of Personnel Management in these matters.

PROGRAM ADMINISTRATION

Services provided under the Employee Assistance Program:

1. **General.** Services provided to employees include short-term counseling related to problem identification; referral for treatment and rehabilitation or other assistance to an appropriate community agency or service (at employee's expense); and follow-up counseling to aid an employee in achieving an effective readjustment to his or her job during and after treatment or rehabilitation.
 2. **Illegal Drug Use Problem.** To complete the effort of the government to eliminate the adverse effects of illegal drug use in the workplace and ensure compliance with Public Law 100-690, a voluntary referral procedure is established to encourage illegal drug users to seek counseling and rehabilitation without risk of disciplinary action. This is referred to as providing the employee "safe harbor". Accordingly, any employee who voluntarily identifies him or herself as a user of illegal drugs, will be provided "safe harbor" and be exempt from disciplinary action for the admitted acts of prior illegal drug use, including possession incident to such use, provided the employee:
 - a. voluntarily makes such disclosure to a superior official prior to his/her being officially informed of an impending drug test.
 - b. obtains counseling and rehabilitation through the Employee Assistance Program.
 - c. agrees to be tested by the agency during counseling and rehabilitation and during the post-treatment and evaluation phase until such time as the individual is released from testing by the attending medical professional.
 - d. consents, in writing, to the release of all records related to counseling and rehabilitation, including urinalysis test results, to appropriate management and EAP officials.
 - e. thereafter refrains from using illegal drugs.
2. **Relationship to Discipline.**
- a. An employee's personal, family or health problems are not a shield from disciplinary action should that be appropriate under all relevant circumstances. However, the rehabilitation action and the Drug and Alcohol Abuse Acts require that agencies offer reasonable accommodation and rehabilitation to individuals who abuse or are addicted to alcohol or drugs if they are "otherwise qualified"

persons with disabilities. These statutes were intended to provide assistance to individuals who, because of long-term effects of drugs or alcohol abuse, have lost the ability to control their behavior. Isolated or casual use of alcohol or drugs does not create a statutory obligation of the agency to provide assistance. To be entitled to reasonable accommodation, an employee must establish that he or she abuses or is addicted to drugs or alcohol. This can be done by the employee personally providing information concerning the pattern of abuse, submitting a detailed medical diagnosis or an evaluation from a non-medical expert in the field of drug or alcohol rehabilitation. However, an employee need not prove addiction to a certainty before the agency's duty to accommodate arises. Where the agency has reasonable notice that the employee may be dependent on drugs or alcohol, the agency must inquire sufficiently to determine whether the employee is physically or mentally disabled and is entitled to reasonable accommodation. Supervisors are reminded of their obligation to ensure the employee's rights to representation under any collective bargaining agreement are fully observed in the event disciplinary action is initiated.

- b. An "otherwise qualified" employee with a disability is one who, despite his or her disability, is technically, physically, emotionally, and morally fit to perform his or her duties. The type of misconduct which, standing alone, disqualifies an employee from his or her position is "that which, by its very nature, strikes at the core of the job or agency's mission, or is so egregious or notorious that an employee's ability to perform his duties or to represent the agency is hampered. A decision to remove a drug or alcohol abusing employee without first affording reasonable accommodation must not be made lightly and must be based on a careful consideration of all facts involved in his case. The agency must be prepared to defend such a decision before the Civil Service Commission or other adjudicating body.
- c. It is medically-recognized principle that one way to help alcohol and drug abusers overcome their problem is to make them take responsibility for the consequences of their actions. Thus, it may be appropriate to impose reasonable discipline, short of removal, while at the same time afford an alcohol or drug abusing employee an opportunity to rehabilitate.
- d. As an alternative to disciplining an employee while, at the same time, providing an opportunity for rehabilitation, an employee may be given a firm choice between seeking assistance through EAP or being subjected to corrective action, to include removal, as appropriate.

e. Drug trafficking and possessions of drugs or drug paraphernalia not solely a manifestation of personal dependency, is misconduct which does not entitle an employee to reasonable accommodation.

3. **Voluntary Employee Referral.** An important aspect of EAP is its availability to employees on a voluntary basis. Agency EAP publicity should emphasize this aspect and encourage employees to seek assistance for alcohol, drug or other problems, before these problems result in a negative impact on job performance or conduct.

4. **EAP Administration and Functions.**

a. The Department of Administration EAP Administrator has responsibility for implementing and operating the EAP within the line and non-autonomous agencies and must not be designated to serve as a Drug Program Coordinator, or in any capacity related to the collection or transportation of samples collected under the drug testing program for employees. The DOA EAP Administrator will be appointed in writing by the Director and shall:

- provide counseling services to all employees referred to EAP by their supervisors or through self-referral and otherwise offer employees the opportunity for counseling and rehabilitation.
- ensure the provision of appropriate supervisory training and other activities needed to educate and inform employees about EAP and the use of illegal drugs in the workplace.
- monitor the progress of referred employees during and after the rehabilitation period.
- develop and maintain an adequate counseling capability through personnel staff, medical, or other counseling sources, including accessible rehabilitation centers and contracting out.
- maintain a list of rehabilitation or treatment organizations which provide counseling and rehabilitation programs to include name, address, phone number, types of service available, hours of operation, contact's name and telephone number, fee structure and insurance coverage, client specialization, and other pertinent information. Publicize the names and locations of the designated counselors at all agencies and departments.
- periodically visit rehabilitation or treatment organizations to meet administrative and staff members; tour the sites; ascertain the experience, certification, and education level of the staff; and determine policies concerning progress reports of clients and post treatment follow-up.

- evaluate the EAP and report the Director of Administration on findings and effectiveness, at least annually, and recommend local EAP changes.
 - effectively publicize the EAP.
- b. Designated agency EAP Counselors serve as the initial point-of-contact for employees who ask or are referred for counseling and must not be designated to serve as a Drug Program Coordinator, or in any capacity related to the collection or transportation of samples collected under the drug testing program for employees. As a minimum, a person designated as a counselor should, or arrangements should be made for him/her to be:
- familiar with the statutes and regulations dealing with persons with disabilities, drug-free workplace, and disciplinary actions.
 - knowledgeable of EAP policies and procedures.
 - able to counsel employees in the occupational setting and identify drug and alcohol abuse and personal problems impacting job performance or conduct.
 - able to communicate effectively with employees, supervisors, and managers about alcohol abuse, personal problems and illegal drug use and their symptoms and consequences.
 - knowledgeable about community resources for treatment and rehabilitation and, when making referrals, consider the nature and severity of the problem; location and cost of the treatment, intensity of the treatment environment, inpatient/outpatient care availability, preferences of the employee, and other special needs such as transportation and child care.
 - able to discuss treatment for alcohol, drug and other personal problems, as well as rehabilitation insurance coverage available to employees under the government employees group health benefits program.
 - able to distinguish the occasional alcohol or drug user from the addicted user and to suggest appropriate treatment based on the distinction.
 - able to provide training and education relating to alcohol and illegal drug use and other personnel problems to employees, supervisors, and other interested groups.

5. Training and Education

a. **Supervisory Training.** The EAP Administrator will conduct training sessions for supervisors on methods for dealing with personal problems including drug and alcohol abuse. Topics may include:

- explanation of the EAP and its relationship to the Drug-Free Workplace Program.
- drug and alcohol awareness, symptoms of drug and alcohol abuse, and methods for dealing with suspected abusers.
- confrontation and referral techniques.
- general principles of rehabilitation, including techniques for supervisors to assist employees in returning to the worksite.
- personnel management issues, e.g., relationship of this program to performance appraisal and disciplinary programs, leave usage, and the use of supervisory notes and other documentation.

b. **Education and Publicity.** The EAP Administrator will ensure that employees are informed on topics dealing with drug and alcohol abuse through such means as memoranda, seminars, and newsletters. New employees will be informed of the services available under the EAP during new employee orientation. The names, locations and telephone numbers of all EAP Counselors shall be posted on all official bulletin boards within the agency.

6. **Relationship with Labor Organizations.** The support and active participation of labor organizations is a key element in the success of the EAP. Where there are units of exclusive recognition, agencies should:

- a. Communicate to labor organizations the government's strong commitment to providing assistance to employees.
- b. Consult or negotiate, as appropriate, concerning the implementation of the EAP.
- c. Include union representatives in training and orientation programs to ensure mutual understanding of EAP policy, referral procedures, and other program elements.