

## U.S. Office of Personnel Management Fact Sheet



### Information for Managers and Work/Life Coordinators About the Employee Assistance Program (EAP)

- An Employee Assistance Program (EAP) is a voluntary, work-based program that provides confidential assessment, short-term counseling, referral, and follow-up services at no cost to employees who have personal and/or work-related problems that affect attendance, work performance, and/or conduct
- Every agency EAP has the goal of restoring valuable employees to full productivity. Following are examples of issues for which an employee may wish to contact an Employee Assistant Program counselor:
  - Alcoholism
  - Drug abuse
  - Divorce
  - Death of a loved one
  - Bankruptcy
  - Other family or workplace crisis
- Services provided by an EAP:
  - Confidential, no cost to employee, short-term counseling to identify and assess problem(s) and help employees in problem solving
  - Referral, where appropriate, to a community service or professional resource that provides treatment and/or rehabilitation.
  - Follow up services to help an employee readjust to his or her job during and after treatment, e.g., back-to-work conferences
  - Training sessions for managers and supervisors on handling work-related problems that may be related to substance abuse or other personal and/or health-related problems
  - Briefings to educate management and union officials on the role of EAPs
- EAPs can be important in—
  - Preventing and responding to workplace violence incidents
  - Delivering critical incident stress debriefings
  - Providing assistance to management and employees during agency restructuring or other major organizational transitions or developments
- In cases of patterns of deficient or deteriorating performance and/or conduct, managers should let the employee know about the services of the EAP and its potential benefits.
- Agencies may grant periods of excused absence to an employee for participation in the agency's EAP for problem identification and referral to an outside resource and for general employee orientation or education activities.

- The following provisions apply to employee records and confidentiality:
  - Privacy Act (5 U.S.C. 552a) covers all EAP records. The EAP staff should provide an employee with a written notice concerning the confidential nature of EAP records along with the conditions where information discussed in counseling may be disclosed.
  - There are three types of disclosure:
    - **Disclosure with consent**- employee's written consent is obtained before any information is released, except where disclosure without the consent of the client is allowed
    - **Disclosure without consent**- only permissible in a few instances, such as the following:
      - to medical personnel in a medical emergency
      - in response to a court order
      - to comply with Executive Order 12564, "*Drug Free Federal Workplace*"
      - an EAP is required by law to report incidents of suspected child abuse and neglect (in some States, elder and spouse abuse) to the appropriate State and local authorities
      - an EAP may make a disclosure to appropriate individuals, such as law enforcement authorities and persons being threatened, if the client has committed, or threatens to commit, a crime that would physically harm someone. This may be done only if the disclosure does not identify the EAP client as an alcoholic or drug abuser
    - **Secondary disclosure**- any information disclosed with the employee's consent must be accompanied by a statement that prohibits further disclosure unless the consent expressly permits further disclosures. Only those individuals working directly with the program's client have access to EAP client records. Clients of the EAP have the right to access their own EAP records
  - Only those individuals working directly with the program's client have access to EAP client records
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  - All EAP records are the property of the Federal department or agency sponsoring the program
- The legal authorities for EAP are as follows:

Sec. 201 of Public Law 91-616, 84 Stat. 1849, as amended and transferred to Sec. 520 of the Public Health Services Act by Sec. 2(b)(13) of Public Law 98-24 (42 U.S.C. 290dd-1).

Sec. 413 of Public Law 92-255, 88 Stat. 84, as amended and transferred to Sec. 525 of the Public Health Services Act by Sec. 2(b)(16)(a) of Public Law 96-24 (42 U.S.C. 290ee-1), and Sec. 7361 and Sec. 7362 of Public Law 99-570.

Public Law 99-570 (5 U.S.C. 7361 and 7362), The Federal Employee Substance Abuse Education and Treatment Act of 1986 and 5 CFR part 792 require Federal agencies to establish appropriate prevention, treatment, and rehabilitative programs and services for alcohol and drug abuse problems for Federal civilian employees.

Public Laws 96-180 and 96-181 authorize the agency to extend counseling services, to the extent feasible, to family members of employees who have alcohol and drug problems and to employees with family members who have substance abuse problems.

Public Law 79-658 authorizes the head of agency to establish health services programs for employees. It also forms the basis for expanding counseling programs from those dealing solely with substance abuse to broad range programs which provide counseling for other personal problems, e.g., family, financial, marital issues.

Executive Order 12564 requires an agency to establish a drug-free Federal workplace program, including an EAP, as an essential element in achieving a drug-free workforce. Agencies must refer all employees to the EAP for assessment, counseling, and referral for appropriate treatment or rehabilitation if the employee has been found using illegal drugs.