



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

September 11, 2006

INSPECTOR GENERAL INSTRUCTION 1426.1

SUBJECT: Employee Assistance Program

References: See Appendix.

A. Purpose. This Instruction implements the Employee Assistance Program (EAP) within the Department of Defense Office of Inspector General (DoD OIG). The program provides for short-term counseling and referral services to employees with emotional, behavioral, financial, marital, or substance abuse problems that may be contributing to unsatisfactory performance or conduct.

B. Applicability and Scope. This Instruction applies to the offices of the Inspector General, the Principal Deputy Inspector General, the Deputy Inspectors General, the Assistant Inspectors General who report directly to the Inspector General, and the Director, Equal Employment Opportunity, hereafter referred to collectively as the OIG Components.

C. Policy. It is the policy of the OIG to ensure that:

1. Employees with substance abuse problems are aided in finding treatment to assist them with recovery and rehabilitation; and
2. Employees with other problems affecting job performance or conduct, such as financial, legal, or personal problems, are also assisted in resolving their problems.

D. Responsibilities

1. The **OIG Component Heads** are responsible for assuring that their staffs are aware of and use the EAP services.

2. The **Assistant Inspector General for Administration and Management (AIG-A&M)** is responsible for providing overall administrative implementation, direction, and oversight of the EAP.

3. The **Human Capital Advisory Services (HCAS)** is responsible for the administration, evaluation, and day-to-day operation of the program.

4. The **Employee Assistance Program Coordinator** is responsible for operating the EAP, including:

a. Providing referral assistance to employees who request treatment, those who are sent to EAP by their supervisors, and those who are referred to EAP because of a confirmed positive drug test.

b. Providing education and training to all levels of supervisors and managers on:

- (1) The effects/symptoms of drug and alcohol use and abuse;
- (2) Emotional/behavioral problems;
- (3) The impact of personal problems on performance and conduct;
- (4) The relationship of the EAP to the drug testing program; and
- (5) Procedures for treatment and rehabilitation.

c. Ensuring the confidentiality of drug test results, medical treatment data and materials, and other information provided/gained through EAP services.

5. **Supervisors** have a key role in the implementation and successful operation of the EAP. They are usually the first to identify poor work performance or conduct that may be caused by health or behavioral problems. When alcohol or drug abuse problems are the underlying factors in poor work performance or conduct, timely intervention may lead to early treatment and rehabilitation that returns an employee as a successful performer. Supervisors are responsible for:

a. Being alert to changes in the work or behavior of subordinate employees;

b. Keeping accurate work performance records, identifying and documenting good and bad performance;

c. Consulting with a Human Resources Specialist (Employee Relations) on how to proceed with an employee who is not responding to ordinary supervisory methods to bring about improvements in work performance or behavior if a substance abuse or emotional problem is suspected;

d. Informing the employee of the availability of counseling and referral services if the performance or conduct problem appears to be caused by personal or health problems; and

e. Determining, in consultation with a Human Resources Specialist (Employee Relations) specialist, when to offer a "firm choice" between seeking assistance and cooperating in treatment or accepting the consequences of unacceptable performance or conduct.

6. **Employees** are responsible for:

- a. Seeking assistance through the EAP to overcome problems that are adversely impacting performance or conduct;
- b. Enhancing their drug awareness through educational opportunities afforded by the EAP or the community at large;
- c. Successfully completing any rehabilitation program that is prescribed by the EAP, including, if necessary, authentic documentation or certification that the program was successfully completed; and
- d. Refraining from the abuse of all drugs and reporting to work free from the influence of alcohol or drugs.

E. Procedures

1. **Operation**

- a. The OIG employees in the Washington, DC, area with drug, alcohol, personal, or emotional problems are referred for counseling and assistance to the private counseling service contractor to the Department of Defense Pentagon Employee Referral Service (PERS). PERS counselors are qualified to counsel employees in the occupational setting, identify drug and alcohol abuse problems, and are knowledgeable regarding community resources for treatment and rehabilitation, including information on fees and payment schedules and the treatments covered by Federal health insurance plans.
- b. The OIG employees assigned to office locations outside the Washington, DC, area are referred to the private counseling service contractor, Federal Occupational Health, for counseling and assistance. Arrangements may be made by calling 1-800-222-0364.

2. **Participation**

- a. Voluntary Referral. Any employee who has a drug, alcohol, or emotional/behavioral problem that is affecting job performance, attendance, or conduct is encouraged to voluntarily seek counseling and information on a confidential basis. Employees may contact a human resources (employee relations) specialist for assistance in referral or go directly to the PERS/EAP services.
- b. Involuntary Referral. Employees may be referred to PERS when the supervisor believes there is a performance or conduct problem that may be attributable to drug or alcohol abuse or other personal problems. Participation in the program is entirely voluntary. No employee may be forced, threatened, or coerced into accepting any form of treatment or counseling.

c. Positive Drug Test. In accordance with the Plan for a Drug-Free Federal Workplace and Executive Order 12564, employees who have a confirmed positive drug test must be referred to the EAP.

3. **Use of Leave**. Employees will be allowed up to 1 hour (or more, if necessitated by travel time) of excused absence for the INITIAL counseling session. Absences occurring after the initial visit for counseling, treatment, and/or rehabilitation will be charged to annual or sick leave, a combination of both, or leave without pay. Supervisors may contact the EAP Coordinator for clarification of leave status, if necessary.

4. **Relationship to Adverse/Disciplinary Actions**. The goal of the EAP is to assist employees to correct the unacceptable performance or conduct before adverse/disciplinary action becomes necessary. The purpose of discipline is to correct behavior and maintain efficiency and morale. Participating in or referral to counseling does not prohibit disciplinary action from being taken. Within the OIG, a confirmed positive drug test usually results in a removal action being proposed for the first offense. Mandatory removal action shall be initiated for refusing to obtain or complete counseling or rehabilitation through the EAP after having been found to use illegal drugs, having been found not to have refrained from illegal drug use after the first finding of illegal drug use, and for the second confirmed positive drug test. The Workforce Relations Division, HCAS, should be consulted to assist in determining an appropriate course of action.

5. **Security Clearances**

a. A security clearance may be revoked for drug or alcohol abuse, as well as for other reasons. This may lead to an employee's removal from the DoD OIG and from the Federal service for failure to meet the qualifications requirements of their position.

b. At the discretion of management, an employee in a sensitive position must be reassigned to a non-sensitive position (if available) and referred to PERS/EAP for treatment and rehabilitation. If no position is available, the employee's removal may be proposed.

6. **Training and Education**

a. The EAP Coordinator will conduct periodic training sessions for supervisors on handling problems of substance abuse and recognizing when an employee with such a problem needs outside assistance.

b. On a continuing basis, educational materials and information on drug abuse and other topics of interest related to EAP and PERS will be made available to supervisors and employees.

7. **Confidentiality and Disclosure**

a. Confidentiality. The confidentiality of information derived from the EAP is covered by Title 42, Code of Federal Regulations, Part 2. Generally, it provides that records,

which identify diagnosis, prognosis, or treatment of any patient, shall be confidential and shall be disclosed only with the prior written consent of the employee.

b. Disclosing Information. There are two types of disclosure of confidential information related to the EAP.

(1) Disclosing With Consent. In cases where an employee is facing a disciplinary or performance-based action, it may be to the employee's advantage to allow disclosure of information. The consent must be in writing and must include:

- (a) The name of the organization that is to make the disclosure;
- (b) The name(s) and/or title(s) of the person(s) or organization(s) to which disclosure is to be made;
- (c) The name of the employee;
- (d) The purpose of or reason for the disclosure;
- (e) The extent or nature of the information to be disclosed;
- (f) A statement that the consent may be revoked at any time and a specification of the date, event, or condition on which it will expire without express revocation. The exception is when action has been taken based on information obtained while the consent to release was in effect; and
- (g) Signed and dated employee consent.

(2) Disclosing Without Consent. Whether or not the employee gives written consent, the content of the record may be disclosed to:

- (a) Any medical personnel to the extent necessary to meet a bona fide medical emergency;
- (b) Qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner; and
- (c) Individuals authorized access by an appropriate order of a court after making application showing good cause for the access.

c. Communication Not Constituting Disclosure. The following types of communications do not constitute disclosure:

(1) Communicating information within a program, between or among personnel who need the information in connection with their duties (e.g., communications among medical or health personnel, program administrators and coordinators, counselors and program advisors of the EAP);

(2) Communications between personnel assigned to the EAP and staff members of a qualified service organization to enable the organization to perform services to the EAP (e.g., referral facilities within the community that are involved in diagnosing, treating, or rehabilitating problem drug or alcohol abusers, laboratories for blood work, or other medical testing facilities); and

(3) Communicating information without identifying the employee (e.g., annual reports to the Office of Personnel Management, management audits, financial audits, or program evaluations).

d. Supervisor's Confidentiality Requirements

(1) Supervisor's notes are not subject to the confidentiality regulations, since they are not performing a drug or alcohol abuse prevention function. However, supervisors must not discuss an employee's problems with persons who do not have a need to know the information to carry out their official duties.

(2) A supervisor cannot receive feedback on the employee's progress after referring an employee to the EAP or to PERS without the employee's written consent. If consent is given, the supervisor may not pass the information on to any unauthorized person without the signing of a separate consent. More than one consent may be contained on a single consent form.

F. Records Management

1. Records on employees who are referred for counseling must be kept in a secure room or in a locked file cabinet, safe, or other similar container when not in use.

2. Official Personnel Folders will not include information concerning an employee's alcohol or drug abuse problems or efforts to rehabilitate the employee.

G. Reporting Requirements. The EAP Coordinator will compile sufficient statistical and programmatic data to provide the basis for evaluating the extent of drug and alcohol abuse problems and the effectiveness of the assistance program. The EAP Coordinator will also submit reports to the Department of Defense and to the Office of Personnel Management that contains data required to meet statutory reporting requirements.

H. Program Evaluation

1. The EAP Coordinator will evaluate regularly the EAP to determine the effectiveness and efficiency of the services provided. The evaluations will include review of:

- (a) Services to employees with drug, alcohol, or other personal problems;
- (b) Referral procedures and effectiveness;
- (c) Supervisory training;
- (d) Employee orientation;
- (e) Reporting systems; and
- (f) Availability and accessibility of the EAP, the PERS, and the EAP record systems.

2. Written evidence of program evaluations, identified deficiencies, and corrections taken will be maintained by the EAP Coordinator.

I. **Effective Date.** This Instruction is effective immediately.

FOR THE INSPECTOR GENERAL:



Stephen D. Wilson
Assistant Inspector General for
Administration and Management

Appendix

**APPENDIX
REFERENCES**

- a. Public Law 99-570, "Anti-Drug Abuse Act of 1986," October 27, 1986
- b. Title 5, Code of Federal Regulations (Part 792)
- c. Title 42, Code of Federal Regulations (Part 2)
- d. Federal Personnel Manual (FPM), Chapter 792 and FPM Supplement 792-2
- e. Executive Order 12564, "Drug-Free Federal Workplace," September 15, 1986
- f. Public Law 92-255, "Drug Abuse Office and Treatment Act of 1972," March 21, 1972
- g. OIG DoD, *Plan for a Drug-Free Federal Workplace*, May 3, 1991