

## **EMPLOYEE ASSISTANCE PROGRAM**

---

### **I. Purpose**

This Management Directive (MD) establishes the policy, procedures and objectives for the Department of Homeland Security (DHS) Employee Assistance Program (EAP).

### **II. Scope**

This MD applies to all DHS Components.

### **III. Authorities**

The following regulations govern this MD:

- A. 5 U.S.C. 552a, "Records Maintained on Individuals."
- B. 5 U.S.C. 7361-7362, "Drug Abuse," "Alcohol Abuse and Alcoholism."
- C. 5 U.S.C. 7901, "Health Service Programs."
- D. 5 U.S.C. 7904, "Employee Assistance Programs Relating to Drug Abuse and Alcohol Abuse."
- E. 42 U.S.C. § 290dd, "Substance Abuse Among Government and Other Employees."
- F. 44 U.S.C. 3101, "Records Management by Federal Agencies."
- G. 42 CFR Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records."
- H. 5 CFR Part 792, "Federal Employees' Health and Counseling Programs."
- I. Executive Order 12564, "Drug-Free Federal Workplace."

## IV. Definitions

A. **Confidentiality**. The EAP is bound by statute and professional ethics to prevent the disclosure of information shared between employees/clients and EAP counselors or EAP program officials without the express written consent of the employee/client, or as otherwise permitted by law. Confidentiality will not be maintained in those instances when the employee/client has been clinically judged to be a danger to himself/herself or to others; where child, elder, or spouse abuse has occurred, or in other instances where the reporting of information is required by a State.

B. **Employee Assistance Program (EAP)**: A DHS confidential counseling program that offers assessment, short-term counseling, and referral services to employees for a wide range of problems that could interfere with work performance. Problems covered by EAP include, but are not limited to, emotional, family relationship substance abuse, occupational, legal or financial problems. EAP also includes consultation and training for managers and supervisors seeking guidance in enhancing the work environment; improving employee job performance; and providing outreach to employees.

C. **Extending services to family members**: The providing of assessment, short-term counseling and referral services to eligible family members of DHS employees. Family members are defined as spouse (including a valid common law marriage) and unmarried dependent children under the age of 22 (twenty-two), including legally adopted children and recognized biological children who meet certain dependency requirements. Stepchildren and foster children are included if they live in a regular parent-child relationship. A regular parent-child relationship means that one is exercising parental authority, responsibility, and control over the child by caring for, supporting, disciplining, and guiding the child, including making decisions about the child's education and health care. Foster children must live with the employee and the parent-child relationship must be with the employee, not the child's biological parent. The employee must be the primary source of financial support for the child and the employee must expect to raise the child to adulthood. An unmarried dependent child who is over 21 (twenty-one) and incapable of self support due to a mental or physical disability that existed before age 22 (twenty-two) is also an eligible family member. Components wishing to provide services to a broader range of family members may do so if circumstances warrant and if resources are available.

D. **Substance Abuse**: The use of alcohol or a psychoactive substance for other than medicinal purposes that impairs the physical, mental, emotional, occupational or social well-being of the user. Short-term problem solving, assessment, referral to professional, rehabilitative resources and follow-up services for substance abusers are offered through the EAP.

E. **Traumatic Incident Management**. A wide range of programs and interventions instituted by a DHS EAP that incorporate services that alleviate or prevent psychological trauma in DHS personnel and enhance their ability to recover from significant stress or traumatic incident. Traumatic Incident Management services are defined in DHS MD 3062, "Traumatic Incident Management Program."

## V. Responsibilities

A. The **Secretary** exercises ultimate authority and responsibility for DHS with respect to assuring employees access to confidential and comprehensive EAP services.

B. The **Under Secretary for Management**, through the DHS Chief Human Capital Officer will ensure compliance and maintenance of a DHS-wide EAP.

C. The **Chief Human Capital Officer (CHCO)** will establish a DHS-wide EAP policy in a manner consistent with guidelines prescribed by the Office of Personnel Management. The CHCO will:

1. Develop DHS-wide EAP policy.
2. Coordinate with Components following acts of terrorism or other disasters affecting DHS-wide personnel or occupational facilities needed by DHS.
3. Provide guidance and coordination in the event of activation and relocation of Continuity of Operations Plan (COOP) implementation as it relates to EAP.
4. Designate an EAP Administrator who has expertise and training in occupational mental health, alcoholism and drug abuse.
5. Identify and develop performance measurements from each respective EAP in determining utilization and operating costs.
6. Advise the Under Secretary for Management and the Secretary on issues involving the EAP.

D. **Components** will ensure that their employees and family members have access to an EAP and:

1. Components will issue specific program policy and procedures that comply with DHS's policy and all applicable professional and legal requirements.

2. Components are responsible for assuming responsibility for all operations of the EAP, including:
  - a. Providing an annual report to the CHCO based on DHS's reporting criteria, and
  - b. Ensuring the confidentiality and security of EAP information.

## VI. Policy & Procedures

A. **Policies.** It is DHS policy to enhance the Department's work environment and improve job performance by providing its employees and their family member's access to an EAP that ensures that its employees have the resources to address: work-related problems, traumatic incidents, substance abuse, mental illness, and marital, financial or other family problems. It is the Department's policy to provide consultation and training to managers and supervisors seeking guidance in enhancing the work environment; improving employee job performance; and providing problem solving strategies to employees.

B. **Procedures.**

3. The basic goals of the DHS EAP procedures are to:
  - a. Assure employees of their right, without fear of reprisal, to seek confidential assistance from the DHS-provided EAP.
  - b. Promote effective employee counseling and referral programs and services.
  - c. Promote a climate of mutual trust.
  - d. Ensure that employees and managers receive preventive services to help them remain healthy and effective despite the stressful nature of their work.
4. Each Component will ensure that its policies and programs comply with the DHS EAP. Upon learning of a traumatic incident, each Component will follow DHS Traumatic Incident Management policy as defined in MD 3062, "Traumatic Incident Management Program". When a traumatic incident occurs that affects more than one DHS Component, EAP services will be coordinated with the CHCO.

5. All EAP staff will comply with DHS ethical standards and all applicable Codes of Professional Conduct for their respective disciplines. The qualifications and credentials for EAP professional staff will be such that they are qualified to carry out EAP services and that they conform to current community standards of training and certification. EAP counselors will be, at minimum, a master's level clinical social worker, professional counselor, psychologist, or board certified psychiatrist and/or possess a clinical license from a closely allied mental health field with demonstrated substance abuse experience.
6. EAP records will be maintained in a system of records that is separate and distinct from any other Component's record system. Each Component that maintains an EAP system of records will publish a notice in the Federal Register in accordance with the Privacy Act of 1974.
7. Information concerning a participant's status with the EAP may not be divulged without express written consent of the participant or as otherwise permitted by law. All records will be handled pursuant to 42 CFR, Part 2, regardless of the client's presenting problem and assessment.
8. Reports. Each Component will provide the CHCO any reports, information and assistance as requested in accordance with confidentiality requirements or with operational security needs of the Component.
9. Appendix A in this MD, i.e., "Employee Assistance Program Policies and Procedures" provides detailed instructions and guidance for the management and utilization of the EAP.

## VII. Questions

Address any questions or concerns regarding this MD to the Office of the CHCO.

## **EMPLOYEE ASSISTANCE PROGRAM POLICIES AND PROCEDURES**

### **I. Purpose**

The purpose of the Employee Assistance Program (EAP) is to provide Department of Homeland Security's (DHS) management and staff support and guidance to enable them to achieve and maintain balance in their lives thereby maximizing work performance, job satisfaction and morale. This set of guidelines establishes DHS procedures to implement the DHS EAP Management Directive by providing definitions, instructions, and procedures for the management and utilization of the Employee Assistance Program. The physical and mental well being of DHS employees is essential to the mission of DHS and is, therefore, of prime concern. The EAP deals with a wide range of employee personal problems that can adversely affect job performance, conduct or attendance. EAP services include, but are not limited to, short term counseling, management consultations, information and referral to community resources, preventative health-education, training and trauma debriefings and response.

The Chief Human Capital Officer will be responsible for modifications and revisions to DHS MD 254-02, Employee Assistance Program Management Directive.

### **II. Procedures**

#### **A. Administration.**

The DHS EAP will be administered through a full-time EAP Administrator who meets the minimum qualifications established in DHS MD 254-02 and who has training and related experience in resolving issues dealing with mental health, alcoholism and drug abuse.

Components may join a consortium, negotiate their own contracts, join existing EAP agreements and/or provide in house counseling which meets the requirements of Title 5 Code of Federal Regulations (CFR), Part 792. The Chief Human Capital Office (CHCO) will assist Components in program development.

B. **Organizational Orientation.**

When it is known that the employee or an employee's family member may have an alcohol, drug or emotional problem, he/she should be encouraged to voluntarily seek EAP assistance, referral and/or information on a confidential basis to address their problems. Employees who have performance, conduct and attendance issues that have not been resolved through supervisory guidance should be encouraged to voluntarily seek EAP assistance, referral and/or information on a confidential basis to address their problems and restore the employee's performance and productivity to the workforce.

C. **Service Delivery Model.**

EAP services may be offered through an internal program by counselors who are federal employees and/or through an external program by contract employees on or off-site. Each Component will develop written EAP policies and procedures that address all aspects of the EAP operations and related business relationships.

Services include but are not limited to, establishing a 24-hour telephone service, recruiting and supporting local counselors in performing their contractual obligations, maintaining an information and referral data bank of community resources, coordinating, planning and providing employee and management EAP orientation training, providing prevention education training, critical incident response to traumatic events, and providing employee counseling and other services as may be contractually defined. Employees may obtain professional assistance through the EAP by self-referral, supervisory referral, or other support service referral.

D. **Program Parameters.**

1. Participation in the EAP is voluntary under all circumstances and the employee may self-refer at any time.
2. An employee who attends EAP sessions on his/her own initiative during non-work hours or while on approved annual leave, sick leave, or leave without pay is not required to inform his/her supervisor regarding his/her utilization of the EAP, nor is the supervisor entitled to any information related to the employee's EAP status.
3. Regardless of whether an employee utilizes the EAP, an employee with job performance, conduct and/or attendance problems bears the responsibility for returning his/her performance, conduct and attendance to an acceptable level and maintaining it at that level.

## APPENDIX A

4. An employee's participation in EAP does not relieve an employee of meeting his/her work performance or attendance standards or prevent management from proposing disciplinary or adverse actions.
5. Admission into the EAP requires an employee to accept the policy and procedures set forth in this Appendix and DHS MD 254-02.

### E. **General Referral Procedures.**

An employee may obtain professional assistance through the EAP by self-referral, supervisory referral, or other support service referral:

1. **Self-referral:** An employee or family member(s) who desire assistance with a work-related and/or personal problem are encouraged to seek confidential counseling before problems begin to affect job performance or conduct. When an employee contacts the EAP for a consultation or appointment, all communication between the employee or his/her family member(s) and the EAP staff or contractors is confidential. An employee will not have his/her job security or promotion opportunities jeopardized by requests for counseling and referral assistance.
2. **Supervisory Referral:** The effectiveness of the EAP depends on the early identification and referral of employees with problems. Early problem recognition and the offer of assistance may prevent unnecessary and costly disciplinary or other adverse actions. The decision to refer an employee to the EAP may be based on any of the following: documented incidents of deteriorating employee performance; incidents of questionable behavior or conduct that would indicate the presence of a personal problem; or information provided by the employee that suggests, without professional assistance, the employee's situation will most likely deteriorate. The supervisor may elect to formally or informally refer the employee.
  - a. **Informal Referral:** A manager or supervisor may suggest that an employee seek EAP services when the employee's performance, conduct, or attendance has begun to deteriorate, or when the manager or supervisor learns information that suggests that the EAP might be of assistance to the employee.

b. **Formal Supervisory Referral:** Formal supervisory referrals must be in writing and highlight the employee's behavior or pattern of failing to perform or conduct himself/herself at an acceptable level. Formal referral memorandums will be presented to the employee by the supervisor and discussed with the employee at the time of presentation. The employee should be asked to acknowledge receipt of the memoranda by signing a copy that the supervisor will retain. Formal referral memorandums may not be filed in the employee's Official Personnel Folder or any other system of records other than the EAP System of Records. Formal referral memorandums are not considered an adverse action.

c. **Positive Drug Screen Referral:** It is mandatory for a supervisor to formally refer an employee to the EAP when notified of a positive drug screen resulting from a Department drug free random test. Persons who have a positive drug screen (in accordance with 5 CFR Part 792 and Executive Order 12564) must be issued a written formal referral to the EAP for substance abuse counseling. Under such a referral, the employee must sign a release allowing the EAP to notify the employee's supervisor that they are cooperating with the EAP. Should the employee refuse to provide such a release, they may not receive EAP services.

An employee who is formally referred may elect to accept or reject EAP services. If the employee's performance fails to improve, the supervisor may elect administrative or disciplinary action as a remedy. A decision to seek disciplinary or adverse action against an employee is not within the EAP domain and should be referred to the appropriate Labor and/or Employee Relations (LER) professional(s) servicing the Components.

F. **EAP Use on Official Government Time.**

Supervisors may grant a reasonable amount of time during normal working hours to an employee to attend EAP counseling sessions during duty hours. An employee working regular duty hours may have his/her tour of duty modified to accommodate his/her attendance at such sessions. Permission to attend EAP counseling sessions on duty time will include travel to and from such sessions.

G. **EAP Costs.**

EAP services, including follow-up and monitoring services, are offered at no cost to DHS employees and qualified family members. Employees referred to private community service providers are responsible for costs incurred.

H. **Confidentiality.**

Information concerning a participant's status with the EAP may not be divulged without the express written consent of the participant or as otherwise permitted by law. All records will be handled pursuant to 42 CFR, Part 2 and the Privacy Act regardless of the client's presenting problem and assessment. EAP personnel responding to inquiries regarding an individual's former or current EAP status will state that they can neither confirm nor deny an individual's participation in the EAP without an EAP-executed release. DHS personnel who violate this provision may be subject to Department disciplinary action.

I. **Consequence of Using EAP.**

No employee will have his/her job security or promotion opportunities jeopardized solely for requesting or seeking assistance from DHS EAP.

J. **System of Records.**

1. **Records Notification.** EAP records will be maintained in a system of records that is separate and distinct from any other Component record system. Each Component that maintains such a system of records will publish a notice in the Federal Register in accordance with the Privacy Act of 1974, as amended.

2. **Record Security.**

a. **Internal EAP files.** Internal EAP files will be maintained by a Component's EAP staff. These files, as well as telephone logs or any other document that may identify a person as an EAP client, will be secured in a GSA security-approved safe. Safes will be locked when staff members are not in their offices. Access to these files will be strictly limited to approved EAP personnel only. Only the case number may appear on the file label. The file will be cross-referenced with a separately secured list with corresponding name and case number. EAP case-sensitive information may only be stored on a computer hard drive or equivalent device if it is on a DHS-approved system with a firewall and password protection.

DHS LAN-based systems will also encrypt stored EAP sensitive data. Compact disks or equivalent removable data storage devices may be used to store sensitive EAP files, provided that such storage devices will be accessible only by a confidential password and secured in a GSA security-approved safe in a locked room when not in use.

b. Contractor EAP Files. Each Component will ensure that its EAP contracts require their contractors to provide adequate file security to prevent the theft of client files or inadvertent release of personal health information. The Privacy Act (5 U.S.C. 552a) and confidentiality regulations (42 CFR Part 2) provide guidelines for maintaining DHS EAP consortium, independent EAP contracts and agency EAP records.

Client Access to Records. Clients have a right to access their EAP records. EAP counselors who believe that a client's access to his or her records could cause a serious misunderstanding or harm to the client should provide assistance in interpreting the records and consult with the client regarding the records.

c. File Destruction. All client records and other associated materials, calendars, daily logs, and client data, regardless of the storage medium, will be maintained in accordance with DHS Records Management defined in DHS MD 0550.1.

d. Limitations. When an employee has been determined to be a danger to himself/herself or others, a disclosure will be made and appropriate preventive action taken. In addition, some states require disclosure for certain acts such as child abuse, spouse abuse and elder abuse.

e. Illegal Activity Disclosures. In the case of drug abuse counseling, counselors will not disclose information concerning the illegal use of drugs by their clients to law enforcement authorities and should not seek to obtain information relating to crimes or criminal conduct from their client. Counselors are not required to accept individuals who persist in discussing illegal activities other than personal use of illegal drugs. If information is disclosed of a planned illegal activity against others, or specificity and detail of past illegal activity against others, the counselor will advise the employee that continued disclosure will result in termination of counseling. In such instances, the counselor will immediately consult the EAP Administrator and/or appropriate legal counsel regarding his/her duty and responsibility. The counselor may not divulge the name or other identifying details regarding the affected employee/client to legal counsel when seeking advice. Should termination of EAP assistance occur, the counselor will, if the employee was referred by management, advise management of the termination of EAP assistance, but will not provide any reason for the termination.

## APPENDIX A

### K. **Reports.**

Each Component will provide the CHCO with reports, information, and assistance as requested unless disclosure of information would violate confidentiality requirements listed in DHS MD 254-02, Employee Assistance Program, or the operational security needs of the Component.

## ATTACHMENT 1 GLOSSARY

1. **Behavioral/Emotional Problems:** Problems which may impair job performance such as substance abuse, depression, anxiety, stress, or any psychological disorder as defined by the latest edition of the *Diagnostic and Statistical Manual of Mental Disorders™*. Problems can also emanate from working conditions or the nature of the job itself.
2. **Community Resources:** Agencies and individual practitioners accessible to the EAP's client population, including but not limited to, private practice clinicians, hospitals, clinics and other outpatient treatment facilities, family counseling services, financial counseling services and self-help groups for medical or behavioral/emotional problems.
3. **Confidentiality:** That requirement preventing an EAP counselor or EAP program official from revealing to any outside party, client/employee information not to be revealed without the express written consent of the employee, or as otherwise permitted by law. Confidentiality will not be maintained in those instances when the employee/client has been clinically judged to be a danger to himself/herself or to others, or in instances where child, elder, or spouse abuse has occurred, as may be required by State reporting requirements.
4. **Debriefers:** A mental health professional trained in disaster psychology, crisis intervention, stress management, human communication, intervention strategies and post-traumatic stress disorders. For law enforcement related critical incidents, debriefers will have experience and training working with law enforcement personnel. The Components will have final approval of counselors hired to conduct debriefings.
5. **Drugs:** Illegal or legal chemical substance that may or may not be used for medicinal purposes, other than alcohol.
6. **EAP Counseling:** Short-term counseling provided by either in-house mental health EAP staff or contract counselors. There is no charge for EAP counseling services.
7. **EAP Counselor:** At a minimum, will be a masters level clinical social worker, professional counselor, a board certified psychiatrist, and/or possess a clinical license from a closely allied mental health field with demonstrated substance abuse experience. The qualifications and credentials for EAP counselors will be such that they are qualified to carry out EAP services and that they conform to current community standards of training, certification and license.

## APPENDIX A

8. **Employee:** Any permanent, temporary or intermittent employee working full time or part time employed by the federal government.
9. **Family Member:** For the purposes of EAP, means spouse (including a valid common law marriage) and unmarried dependent children under age 22 (twenty-two), including legally adopted children and recognized biological children who meet certain dependency requirements. Stepchildren and foster children are included if they live in a regular parent-child relationship with the employee. A regular parent-child relationship means that one is exercising parental authority, responsibility, and control over the child by caring for, supporting, disciplining, and guiding the child, including making decisions about the child's education and health care. Foster children must live with the employee and the parent-child relationship must be with the employee, not the child's biological parent. The employee must be the primary source of financial support for the child and the employee must expect to raise the child to adulthood. An unmarried dependent child who is older than 21 (twenty-one) and incapable of self support due to a mental or physical disability that existed before age 22 (twenty-two) is also an eligible family member. Components wishing to provide services to a broader range of family members may do so if circumstances warrant and if resources are available.
10. **Follow-Up Services:** Post-treatment contact and support by the EAP counselor to the employee/client who successfully completes a prescribed course of treatment. For persons referred due to substance abuse, contact frequency is once a month for a year (for aircraft pilots, two years). For other than addiction treatment, contact frequency is defined by the treating EAP counselor as delineated in the client's treatment plan. Contact is normally by phone and is directed at supporting the treatment gains made by the employee. There is no charge to the employee for follow-up services.

## APPENDIX A

11. **Formal Supervisory Referral:** A written referral by a supervisor or manager to an employee encouraging the employee to take advantage of the EAP to address deteriorating work performance, conduct and/or attendance problems. The employee's participation in the EAP remains voluntary. A Formal Supervisory Referral Memorandum may not become part of an employee's Official Personnel Folder, Employee Performance Folder or Employee Medical Folder, or any other system of records maintained by the Component, other than by the EAP and the initiating party, nor may the memorandum be used in support of any disciplinary or adverse action except to demonstrate that the Department formally referred the employee to the EAP. However, the information included in the memorandum regarding the employee's performance, attendance, and conduct may be used in support of any disciplinary or adverse action that may be taken.
12. **Informal Supervisory Referral:** A verbal recommendation by a supervisor or manager that an employee utilize the services of the EAP.
13. **Monitoring Services:** The time spent by the EAP counselor to ensure that the referred employee receives those services promised by a service provider and to intervene on the employee's behalf should problems arise. Contact is usually by phone. Frequency of contact is based on the clinical needs of the client but normally will not be more than once a week for a period of four months. There is no charge to the employee for monitoring services.
14. **Peer Support Program:** An optional EAP-sanctioned program managed by an EAP that uses trained DHS volunteers to support other employees and their families following a traumatic incident, to encourage them to seek medical or mental health counseling when it is in their best interest, or to more generally assist in providing support and outreach to a co-worker.
15. **Positive Drug Screen Referral:** A written referral of an employee to the EAP for substance abuse counseling as a result of a positive drug screen (in accordance with 5 CFR Part 792 and Executive Order 12564). Under such a referral, the employee must sign a release allowing the EAP to notify the employee's supervisor that they are cooperating with the EAP.
16. **Self Referral:** The self-initiated use of the EAP by an employee or a member of the employee's family.
17. **Supervisory Consultation:** Consultations and assistance to managers and supervisors seeking guidance in managing the troubled employee, enhancing the work environment and improving employee job performance.

## APPENDIX A

18. **Traumatic Incident**: Any uncontrollable event or series of events that can overwhelm an individual's defense mechanisms, such as direct or indirect involvement in shootings; assaults; hostage incidents; suicides; threats on life, family or property; vehicular, helicopter or airplane crashes; or major injuries.
19. **Traumatic Incident Management (TIM)**: A wide range of programs and interventions instituted by a Department Employee Assistance Program that incorporates services that alleviate or prevent psychological trauma in Department personnel and enhance employees' ability to recover from significant stress or traumatic incident. Traumatic Incident Management services are defined in DHS MD 3062, Traumatic Incident Management Program.