

DEPARTMENT OF THE NAVY
CIVILIAN HUMAN RESOURCES MANUAL

SUBCHAPTER 792.1

CIVILIAN EMPLOYEE ASSISTANCE PROGRAM

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SUBCHAPTER 792.1

CIVILIAN EMPLOYEE ASSISTANCE PROGRAM

- References:** (a) Federal Employees' Health and Counseling Programs, 5 CFR 792
(b) DoD Directive 6485.1, 10 Aug 92
(c) DON OCHR memo Ser OOG/020-05 of 1 Feb 05, DON Procedures for Providing Reasonable Accommodation
(d) Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Chapter 1, Part 2

- Cancellation:** OCPMINST 12792.1
OCPMINST 12792.4 (HIV)

1. Purpose. This subchapter establishes policy and assigns responsibility for the Civilian Employee Assistance Program (CEAP) within the Department of the Navy (DON) in support of references (a) through (d).

2. Policy

a. It is DON policy to offer help to those employees with personal problems that have or will have an adverse impact on job performance and/or conduct. Personal problems may be related to family matters, misuse of drugs and/or alcohol, surviving natural disasters, etc. When feasible, the CEAP may also be extended to family members of civilian employees.

Deleted:

b. In accordance with references (a) through (d), the CEAP offers professional help with assessing a problem, providing short-term counseling, and referring civilian employees to other specialized professionals. Other types of personal problems that can adversely impact employee performance and/or conduct that would benefit from a CEAP referral include adoption, aging, anxiety, child care, depression, eating disorders, elder care, financial concerns, gambling, grief and loss, legal concerns, marital issues, medical problems, money management, parenting, psychiatric disorders, relationship difficulties, stress, etc.

c. Employees who are infected with Human Immunodeficiency Virus-1 (HIV-1), or have the Acquired Immune Deficiency Syndrome (AIDS) and/or related medical conditions will be treated with dignity and in the same manner as any individual with a serious and/or potentially life threatening condition.

3. Definitions

Alcohol Abuse - the use of alcohol to an extent that it has an adverse effect on performance, conduct, mission effectiveness, and/or the user's health, behavior, family, or community.

Alcohol and Drug Dependency - the use of alcohol or drugs on a regular or continuing basis. Dependence may be both physical and psychological. Dependency must be determined by a licensed physician, medical officer, clinical psychologist, a chemical dependency professional, or by state-approved agencies that have been trained in chemical dependency assessment.

Rehabilitation - the rehabilitation process restores employees who have been impaired by alcoholism, drug addiction, or other dependencies back to effectively functioning employees. Rehabilitation occurs after treatment has been completed and may be in either a clinical or non-clinical setting. Rehabilitation may include individual or group counseling, or participation in self-help organizations such as Alcoholics Anonymous.

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

4. Applicability. The DON CEAP outlined in this subchapter applies to all DON civilian employees who meet the definition of 5 U.S.C. 2105, except for employees paid from nonappropriated funds.

5. Responsibilities

a. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)) is responsible for the development and issuance of DON CEAP policy.

b. The Deputy Assistant Secretary of the Navy (Civilian Human Resources) (DASN(CHR)) will provide oversight on DON CEAP policy development and assess effectiveness.

c. The Director, Office of Civilian Human Resources (OCHR) will appoint a DON CEAP Administrator in writing. The Director will inform the DASN(CHR) on the program status as appropriate. The responsibility for program administration and program assessment is delegated to the Director, OCHR.

d. The DON CEAP Administrator will:

(1) assume the lead role in the administration and the evaluation of DON CEAP.

(2) provide guidance and assistance to the Echelon I and II commands and their designated command CEAP Administrators on program administration and assessment.

(3) serve as the primary DON liaison with the Department of Defense, Office of Personnel Management (OPM), and other external agencies in matters related to DON CEAP policy and guidance.

e. The Chief of Naval Operations (CNO), the Commandant of the Marine Corps, the Assistant for Administration/Under Secretary of the Navy, and the heads of Echelon II commands will:

(1) issue implementing regulations and organizational requirements to their activities or commands as needed.

(2) designate in writing, a command CEAP Administrator to exercise oversight responsibility for the implementation of this subchapter for all subordinate activities and commands. The name and contact information for the command designee shall be provided to the DON CEAP Administrator.

f. Heads of Navy and Marine Corps commands/activities will:

(1) establish a CEAP consistent with this subchapter. Activities/commands may utilize contractor support services, cooperative/consortium participation, in-house resources, or a combination thereof, to ensure the provision of counseling and referral services required under this subchapter.

(2) designate in writing an activity/command CEAP Administrator. Ensure that all CEAP Administrators are given adequate training and sufficient time to perform their assigned duties.

(3) appoint an appropriate number of CEAP Counselors. Ensure that all CEAP Counselors are given adequate training and sufficient time to perform their assigned duties. In-house CEAP Counselors may be full-time or part-time; civilian or military; and can be from within or outside the activity/command depending on local needs and resources.

The administrator may also be a counselor if that meets the activity/command's needs and sufficient time is available to perform both functions. Contract counselors may be full-time or part-time depending on the local needs and resources.

(4) provide private and confidential facilities for employees seeking assistance from CEAP and ensure that adequate facilities are available under any CEAP contract or consortium agreement.

(5) fulfill any requirement for collective bargaining prior to implementation under the Federal Service Labor Management Relations Statute, Title 5 U.S.C., Part III, Subpart F, Chapter 71, and requirements related to changes in conditions of employment resulting from CEAP activities.

g. Human Resources Office (HRO) Directors will provide advice and assistance to the heads of Navy activities and Marine Corps commands, and to activity/command CEAP officials on the implementation of the local CEAP including:

(1) advise and assist activities/commands with contractual or cooperative agreements to provide counseling, referral, and/or educational services.

(2) dissemination of policy and guidance issued by a higher authority.

(3) notification to all new employees about CEAP service availability.

h. Activity/Command CEAP Administrators have the responsibility for implementing and operating the CEAP within covered activities/commands according to the specifications outlined next section titled Program Administration.

i. CEAP Counselors will provide the initial counseling and referral for long-term counseling for employees from an activity/command as outlined in the Program Administration section.

j. Supervisors will:

(1) refer employees to CEAP in situations where they believe alcohol, drugs, or other personal problems are adversely impacting job performance and/or conduct.

(2) provide referral to CEAP in writing for employees with reported positive drug tests.

(3) give appropriate consideration to employee efforts to resolve such personal problems, which may include their failure or refusal to participate in counseling, when determining corrective actions for performance and/or conduct deficiencies.

(4) refrain from diagnosing the employee's problems, and refrain from ordering an employee to undergo a medical examination for the purpose of determining his or her fitness for duty.

(5) consult with activity/command HRO and CEAP officials.

k. Employees will:

(1) not report for duty under the influence of alcohol and/or illegal drugs.

(2) correct performance and/or conduct problems, and keep all referral appointments made by CEAP Counselors for overcoming alcohol abuse, drug misuse, and /or other personal problems.

(3) be prepared to use personal leave and pay for costs incurred from CEAP referral appointments.

6. Program Administration

a. The CEAP services for employees include:

(1) short-term counseling related to problem assessment.

(2) referral for medical treatment, rehabilitation, or other assistance to an appropriate community agency or service. Treatment and/or rehabilitation at Government expense are prohibited according to the Comptroller General Decision, 57 Comp.Gen. 62 (1977).

(3) follow-up counseling to aid an employee in achieving an effective readjustment to his or her job, during and after medical treatment or rehabilitation.

(4) appropriate counseling when employees are testing for HIV-1, and if employees are evaluated as HIV-1 positive.

b. The voluntary nature of the employee referral is an important aspect of CEAP. Activity/command CEAP publicity should emphasize the voluntary aspect of the program and encourage employees to seek assistance for alcohol, drug, and/or other problems before these problems adversely impact job performance or conduct.

c. In the relationship between CEAP and Adverse Action/Discipline, employees will:

(1) be held to the same standards of professional conduct regardless of personal, family, or health problems, which will not be used as a shield from adverse actions.

(2) not be protected from adverse actions while participating in CEAP when they have been identified as using or possessing illegal drugs, except under safe harbor conditions as defined in the Drug-Free Workplace Subchapter 792.3 4f(6).

d. The relationship between CEAP and the Drug-Free Workplace Program (DFWP) is that:

(1) Employees with a reported positive drug test result will be referred to CEAP.

(2) Employees invoking safe harbor will: (a) voluntarily make drug use disclosure to a superior official prior to being identified through other means; (b) agree to and sign the Confidentiality Statement located in Appendix A; (c) obtain counseling and successfully complete rehabilitation; and (d) refrain from illegal drug usage.

e. The relationship between CEAP and reasonable accommodations for employees with disabilities is that agencies are no longer required to offer employees with alcoholism, who engage in misconduct, a firm choice between treatment and discharge. While Title I of the Americans with Disabilities Act (ADA) requires employers to consider other forms of reasonable accommodation for employees with alcoholism such as flexible scheduling and/or leave to accommodate an employee's treatment, employers do not have to excuse violations of uniformly applied conduct or job performance standards by offering a firm choice as a form of reasonable accommodation (See Johnson v. Department of Interior, EEOC Petition No. 03940100 (1996); Walker v. Secretary, Department of Health and Human Services, EEOC appeal 01985815).

f. Confidentiality relating to CEAP:

(1) Information regarding discussions with employees and CEAP Counselors cannot be disclosed without the employee's permission except for instances of suspected child abuse and neglect, or for employees who commit or intend to commit crimes that would harm someone else or cause substantial property damage (42 CFR, Chapter I, Part 2).

(2) Employees may not be denied counseling services solely because of their refusal to sign a confidentiality information release form. See Appendix B for the Confidentiality Statement and the safe harbor requirements for disclosure.

g. Activity/command CEAP administration and functions are:

(1) implement and operate the CEAP within the activity/command. Activity/Command CEAP Administrators who also serve as CEAP Counselors, will not be designated to serve as a Drug Program Coordinators under the Drug-Free Workplace Program for civilian employees.

(2) offer employees the opportunity for counseling and rehabilitation and ensure counseling services are adequately provided to all civilian employees referred by their supervisors and/or self-referred.

(3) provide appropriate supervisory training to educate and inform activity/command personnel about CEAP and the prohibition of illegal drug usage, and post information regarding CEAP programs and events in public areas.

(4) monitor the progress of referred employees during and after the rehabilitation periods and determine policy concerning progress reports, and post treatment follow-up for clients in accordance with the confidentiality requirements.

(5) ensure that the referred treatment and rehabilitation facilities are staffed with experienced and professional personnel through the evaluation of professional credentials, education, and experience.

(6) evaluate and assess the CEAP, report program effectiveness to the activity/command head and DON CEAP Administrator as per their requirements and in accordance with the employee's confidentiality requirements.

(7) effectively publicize the CEAP.

(8) monitor the performance of CEAP Counselors.

(9) monitor the contract performance and verify services rendered to the activity/command when the activity/command contracts for CEAP services or has an agreement with other activities/commands to obtain CEAP services. All or some of the above CEAP requirements may be contracted out.

h. The CEAP Counselors serve as the initial point-of-contact for employees who request or are referred for counseling. The CEAP Counselors will not be designated to serve as Drug Program Coordinators. The CEAP counseling services may be obtained via contract or through agreements with other activities or commands.

i. A person designated as a CEAP Counselor must:

(1) have expert knowledge and effectively communicate CEAP regulations, policies, and procedures.

(2) communicate effectively about the symptoms and consequences of alcohol abuse, personal problems, and illegal drug use with employees, supervisors, and managers.

(3) obtain information and effectively communicate information relating to the availability of community resources for treatment and rehabilitation.

(4) understand and effectively communicate all available treatment options and referrals through insurance programs, which are available to employees under the Federal Employee Health Benefits Program.

(5) counsel employees and identify drug abuse, alcohol abuse, and personal problems impacting on employee job performance or conduct.

j. The CEAP Counselor must maintain a list of effective rehabilitation or treatment organizations that provide counseling and rehabilitation programs, and include the following information on each organization:

(1) a list of locations and the contractor's name, address, and phone number for each location.

(2) types of services available.

- (3) hours of operation.
- (4) point of contact name and phone number.
- (5) fee structure and insurance requirements.
- (6) client specialization.
- (7) any other relevant information.

k. When making referrals, the CEAP Counselor will consider the following:

- (1) nature and severity of the problem.
- (2) location of the treatment.
- (3) cost of the treatment.
- (4) intensity of the treatment environment.
- (5) inpatient and outpatient care availability.
- (6) other special needs, such as transportation and childcare.
- (7) employee preferences.

l. The CEAP Counselor will provide training and education relating to alcohol and the prohibition of illegal drug usage, HIV, AIDS, and other personal problems to employees, supervisors, union representatives, and other interested groups.

m. The CEAP Counselor will notify the Drug Program Coordinator in writing when an employee referred for drug related issues is ready to return to work after drug abuse treatment and/or rehabilitation. See Appendix A for a sample form.

n. Supervisory CEAP training will be conducted for all new supervisors. Supervisory CEAP refresher training should be conducted every three years with appropriate topics to include:

- (1) a review of the types of employee personal problems supervisors may experience and CEAP's relationship to the DON Drug-Free Workplace Program.

- (2) illegal drug usage and alcohol abuse information, symptoms of drug and alcohol abuse, and recommended methods for

addressing suspected or identified illegal drug and alcohol abusers.

(3) intervention and referral techniques.

(4) general principles of rehabilitation including supervisory techniques to assist employees returning to the worksites.

(5) personnel management issues such as the relationship of CEAP to performance appraisals, disciplinary actions, leave usage, supervisory notes, and other documentation.

o. Education and publicity is the responsibility of the activity/command CEAP Administrator who will ensure that employees are informed about CEAP and topics related to drug and alcohol abuse via memoranda, seminars, and articles in activity/command publications or web sites. All new employees will be informed of CEAP services available to them. The names and locations of CEAP Counselors will be listed in telephone directories, displayed on employee bulletin boards, and available on activity/command web sites.

p. Labor Union support and active participation is a key element in CEAP success. Where there are units of exclusive recognition, activities/commands should:

(1) communicate to the labor organizations DON strong commitment to employee assistance.

(2) consult or negotiate, as appropriate, aspects of CEAP that may impact conditions of employment for bargaining unit members.

(3) include union representatives in CEAP training and orientation programs to ensure mutual understanding of CEAP policy, referral procedures, and other program elements.

q. Program records are the responsibility of the CEAP administrators and counselors, who will maintain the necessary documentation for program management. Echelon I and II activities/commands will prepare any reports requested by the DON CEAP Administrator for program management assessment and all CEAP reporting as required by the OPM. All medical and/or rehabilitation records relating to the employees' problems, including CEAP records containing the identity, diagnosis,

prognosis, and treatment, are confidential and may only be disclosed as authorized by reference (d) above, including the provision of employee written consent. Employees may authorize disclosure of their records to their supervisors, or other designated management officials, for verification of treatment or general evaluation of their treatment progress. When a contractor provides CEAP services, contractor CEAP records are subject to these same provisions and records will be made available to the CEAP Administrator.

7. Action. Commanders, Commanding Officers, Officers-in-Charge, and Heads of activities will follow the guidance and direction prescribed in this policy.

Appendix A

CEAP CONFIDENTIALITY STATEMENT

The information you discuss with the counselor will not be disclosed to anyone except in the following circumstances:

1. You consent to disclosure in writing
2. Disclosure is a requirement of the law.
3. Life and/or safety are seriously threatened as determined by the CEAP Counselor.
4. You are assigned to a safety-critical position and the CEAP Counselor assesses that you have an alcohol or drug dependency problem and you fail to comply with the CEAP's treatment recommendations, including the requirement that you cease alcohol and/or specified drugs usage and submit to drug and/or alcohol screening as determined appropriate by CEAP Administrator and/or your treatment facility. In this case CEAP may confidentially advise appropriate management or human resources representatives as to whether you have pursued counseling and are cooperating with CEAP recommendations. Information on your personal situation will not be communicated to individuals outside the CEAP without your authorization.
5. You have been administratively referred to CEAP in connection with work performance or in connection with the Drug-Free Workplace Program policy, and you have been advised that your pursuit of CEAP services and cooperation with CEAP counseling are conditions of your continued employment. In this case, CEAP may confidentially advise appropriate management or human resources representatives as to whether you have pursued counseling and are cooperating with CEAP recommendations. Information on your personal situation will not be communicated to individuals outside the CEAP without your authorization.

I, (print name) _____, understand the above terms and accept them as the terms of my participation in the CEAP.

Signature

Date

Witness

Date

Parent, guardian, or legal representative (when required)
Date

___ Copy given to client
Counselor name & address _____

CONFIDENTIAL

MEMORANDUM

From: CEAP Counselor

To: Drug Program Coordinator

Subj: NOTIFICATION OF EMPLOYEE TREATMENT FOR DRUG USE

Date: _____

Regarding: _____ (Employee's name)

Organizational Unit _____

This is to inform you that the above referenced employee is now available to return to duty and begin the follow-up testing program as specified in their written agreement or rehabilitation plan.

This employee has provided the following documentation:

_____ Completed their treatment program at _____

_____ Completed the intensive phase of their treatment program and is available to begin follow-up testing while they continue in treatment at _____

The employee understands this information is being forwarded to you and has signed all necessary Authorization for Release of Information.

If you have any questions, or if I may assist further, please call me at (phone number of CEAP counselor)

CEAP Counselor Signature

Date

*This form may be modified for alcohol use

