



U.S. Department of Justice
Federal Bureau of Prisons

PROGRAM STATEMENT

OPI: RSD/PSB
NUMBER: 3792.11
DATE: April 4, 2023

Employee Assistance Program

/s/

Approved: Colette S. Peters

Director, Federal Bureau of Prisons

1. PURPOSE AND SCOPE. The Employee Assistance Program (EAP) is a comprehensive counseling and referral service, available to all Bureau of Prisons (Bureau) employees and their immediate families, to address work-related adjustment, high stress incidents, substance misuse, mental health symptoms, marital or family distress, and financial, legal, and other personal problems. This Program Statement outlines the standards and assigns responsibilities to implement a comprehensive EAP. Specifically, it provides guidance to supervisors making EAP referrals, details expectations for professional conduct for EAP clinicians, and outlines expectations for assessment of the EAP.

a. Summary of Changes

- Changes the name of Crisis Support Team to Correctional Support Team (CST).
- Expands EAP to cover staff for 18 months after retirement and to cover the family members of staff for 12 months after that staff members' death.
- Requires EAP Counselors to be licensed.

Policy Rescinded

P3792.07 Employee Assistance Program (12/30/2006)

b. Program Objectives. The expected results of this program are:

- Short-term counseling and referral services will be provided to staff and their immediate families.
- Employee morale and productivity will be enhanced.
- The frequency of disciplinary actions will be reduced.
- The confidentiality of information received during service provision will be maintained in accordance with Federal regulations.

Institution Supplement. None Required. Should local facilities make any changes outside changes required in national policy or establish any additional local procedures to implement national policy, the local Union may invoke to negotiate procedures or appropriate arrangements.

2. DEFINITIONS. For the purpose of this Program Statement, these terms are defined as follows:

- **EAP Counseling.** Comprehensive short-term counseling and referral services provided to employees, their dependents, spouses, and/or domestic partners to address emotional, relationship, family, substance use, employment, financial, or legal problems.
- **EAP Coordinator.** A Bureau Psychologist with responsibility for oversight of EAP services provided at a Bureau institution or office, to include supervision of Bureau EAP Counselors and promotion of the EAP to Bureau staff.
- **Bureau EAP Counselor.** A Bureau Psychologist with responsibility for providing EAP services to staff at a Bureau institution or office.
- **External EAP Counselor.** An off-site, licensed EAP provider who, through a contract with the agency, provides EAP services to Bureau employees.
- **Self-Referral.** The self-initiated use of EAP by employees.
- **Supervisory Referral.** A supervisory recommendation to an employee to consider voluntary participation in EAP services.
- **Supervisory Consultation.** Discussions between a supervisor and/or manager and a Bureau EAP Counselor to determine the appropriateness of a supervisory referral. Such consultation does not permit disclosure of information obtained during counseling sessions, except as authorized by form BP-A0907, EAP Consent for Release of Confidential Information – Redisdisclosure Prohibition.
- **Correctional Support Team (CST).** CST is a peer support service used to maintain levels of wellness and resilience that support effective functioning in a correctional environment, but does not provide counseling or mental health care.

3. PROGRAM REQUIREMENTS.

The Bureau will offer a comprehensive EAP through an external contract EAP provider. EAP services are voluntary and confidential, with limits (see Section 5, Confidentiality of this Program Statement). EAP services are not a substitute for substance misuse counseling for the purpose of the Safe Harbor program. See the Program Statement **Drug Free Workplace**. Participation in the EAP cannot be used against an employee in hiring or disability retirement decisions.

- **Service Delivery Model.**

- (1) Services are offered through an external contract EAP provider. To the maximum extent possible, Bureau employees will utilize services through the contract EAP provider. Staff may directly access EAP services by utilizing the contact information for the provider, who may assign an External EAP Counselor to the employee.
 - (2) Employees may also request EAP services from Bureau EAP Counselors at their duty station. However, employees are strongly encouraged to utilize the contract EAP provider, which offers a wider range of services with greater scheduling options.
 - (3) Bureau employees will remain eligible for EAP services for eighteen months following retirement or separation from the agency.
 - (4) In cases of an employee death, the employee's dependents and domestic partners will remain eligible for the full range of EAP services for twelve months following the employee's death.
 - (5) EAP participation is voluntary. Although supervisors may refer staff to EAP, the decision to make contact with the service or participate in EAP is always voluntary. Neither a referral, nor an employee's decision to use EAP or not will ever be used against the employee in performance or promotion decisions.
- **Confidentiality.** Information concerning a participant's status with the EAP may not be disclosed without written consent of the participant or as otherwise permitted by law. See form BP-A0906, Statement of Client Understanding.
 - **Attendance.** Employees may schedule EAP services during their off-duty hours as they wish. In addition, employees may receive EAP services during their workday with the supervisor's approval. Employees may be granted administrative leave, consistent with the Program Statement **Leave and Benefits**, to attend an appointment with an external EAP counselor. An Administrative Leave memorandum, signed by the employee's supervisor, will be included in the time and attendance file. Typically, approval is for three hours (one hour session plus one hour travel each way). Supervisors may require confirmation of attendance for EAP appointments during duty hours; this should be maintained separately from the time and attendance file in a manner that protects the employee's privacy. Content of EAP appointments must never be requested by a supervisor or manager.
 - **Drug Free Workplace.** Consistent with the Program Statement **Drug Free Workplace**, the Medical Review Officer, Chief Executive Officer (CEO), or the Chief, Drug Free Workplace is required to issue a Supervisory Referral to an employee identified by a positive screen for illicit drugs. EAP services do not meet the requirement for treatment when an employee requests Safe Harbor under the Program Statement **Drug Free Workplace**.
 - **Job Security/Promotions.** No employee will have their job security or promotion opportunities jeopardized solely because of a request for assistance from the EAP. Utilizing EAP services does not impact background investigations or security clearances, unless an employee poses a threat to national security (e.g., espionage, violation of confidences of American spies), nor does it trigger "red flag" laws regarding use of firearms. EAP Counselors will not release information for a background check without the employee's written consent.
 - **Work Performance/Conduct.** Employees receiving EAP services assume the responsibility for maintaining their performance and conduct at an acceptable level.

- **Retirement.** Use of the EAP does not jeopardize the employee's right to disability retirement if their condition warrants it.

Disability. Use of the EAP does not jeopardize the employee's right to request a reasonable accommodation if their condition warrants it.

4. PROGRAM ADMINISTRATION.

- **Program Authority.** The Assistant Director for the Reentry Services Division is delegated general authority and responsibility for the Bureau's EAP.
- **Selection Factors for Bureau EAP Personnel.** Any Bureau Psychologist assigned responsibilities as an EAP Coordinator or EAP Counselor must hold a doctoral degree in Clinical or Counseling Psychology and must hold a current license to practice psychology. In order to ensure an adequate number of Bureau EAP providers, licensure is required for all non-entry level Bureau Psychologist positions.
- **Credentials for Non-Bureau EAP Providers.** Any External EAP contract counselor will, at a minimum, be licensed mental health providers and have credentials that conform to current community standards of training and certification.
- **Program Administration.** The Central Office Psychology Services Administrator is responsible for the National EAP Coordinator's direct supervision and maintains responsibility for the EAP's overall direction.
 - (1) The Psychology or EAP Program Administrator ensures Bureau EAP Coordinators and Counselors are allocated sufficient duty time to participate in continuing education training, conferences, and other meetings to ensure continued association with professional colleagues.
 - (2) In the event of a disaster affecting Department of Justice (DOJ) personnel or facilities, the Bureau EAP Program Administrator (with the concurrence of the Director of the Bureau) shall work cooperatively with the DOJ EAP Administrator in coordinating and delivering the DOJ response.
- **National EAP Coordinator.** The National EAP Coordinator is a licensed, doctoral level Psychologist and is responsible for:
 - (1) Monitoring external EAP contracts as they relate to the overall EAP service delivery and contractor performance;
 - (2) Monitoring staff satisfaction with EAP and the overall effectiveness of EAP services;
 - (3) Providing an annual report to the DOJ EAP Administrator based upon DOJ's reporting criteria;
 - (4) Developing and distributing policies and information regarding EAP issues and services to field components;

- (5) Maintaining necessary records;
- (6) Adhering to confidentiality requirements and developing security procedures to protect client records;
- (7) Publicizing EAP services through emails, posters, memoranda, news articles, fliers, etc.; and
- (8) Developing national Bureau training annually (Annual Training) and on an as needed basis on the EAP program.

■ **Chief Executive Officer (CEO).** CEOs are responsible for:

- (1) Maintaining an EAP in each facility in accordance with this Program Statement;
- (2) Designating the EAP Coordinator, who is ordinarily the Chief of Psychology Services. The EAP Coordinator may designate licensed Psychologists as EAP Counselors;
- (3) Ensuring all supervisors and managers receive regular training on EAP and the supervisory consultation/referral functions therein;
- (4) Ensuring all employees are briefed on the EAP and CST; and
- (5) Ensuring all EAP Coordinators and Counselors are allocated sufficient time to participate in professional development.

■ **EAP Coordinator.** EAP Coordinators are responsible for:

- (1) The supervision of Bureau EAP Counselors;
- (2) Monitoring and evaluating the program's operation;
- (3) Maintaining necessary records;
- (4) Assuring strict adherence to confidentiality requirements and developing security procedures to protect client records;
- (5) Publicizing EAP services through emails, posters, memoranda, news articles, fliers, etc.;
- (6) Participating in professional development; and
- (7) Providing training annually on the EAP program.

■ **Bureau EAP Counselor.** Bureau EAP Counselors are responsible for:

- (1) Adhering to confidentiality requirements. Bureau EAP Counselors will not disclose information concerning illicit drug use by their clients, and shall not seek to obtain information relating to crimes or criminal conduct from their clients. An exception is

crime that directly and imminently threatens loss of life or serious bodily injury;

- (2) Providing assessment and short-term counseling;
- (3) Making appropriate professional referrals to External EAP Counselors or to community resources;
- (4) Maintaining client records and submitting non-identifying demographic information annually to the component EAP Coordinator; and
- (5) Participating in professional development.

5. PROFESSIONAL EMPLOYEE ASSISTANCE PROGRAM PRACTICES.

- **Ethical Standards for EAP Personnel.** All EAP personnel will comply with the Code of Professional Conduct for their respective disciplines. Anyone who believes a Bureau EAP Counselor or an External EAP Counselor has violated the ethical standards, professional code of conduct or licensure requirements for their respective professional discipline will report their concerns to the component EAP Coordinator or the National EAP Coordinator, as appropriate. These concerns can also be reported directly to the Counselor's licensing body. In addition, the following ethical standards also apply to all Bureau EAP personnel:

- (1) EAP Coordinators and Counselors shall not engage in sexual relations with current or former clients (for at least two years), nor shall they provide counseling services to a client with whom they have had prior sexual relations. They shall not engage in sexual relations with close relatives, guardians, or significant others of current clients.
- (2) Consistent with current American Psychological Association ethical guidelines, EAP Coordinators and Counselors may not engage in sexual relations with former clients for at least two years after the cessation of EAP services. In the most unusual circumstance that such a relationship might occur following the two-year interval, the Psychologist bears the burden of demonstrating there has been no exploitation of the former client. Violations of the ethical standards above may result in disciplinary action up to and including removal from Federal service.

- **Standards of Employee Conduct.** Employees will report any violation or apparent violation of Standards of Employee Conduct by Bureau of Prisons EAP personnel to their CEO or any other appropriate authority in accordance with the Program Statement **Standards of Employee Conduct.**

- **Conflict of Interest.** The EAP will be placed organizationally in an area of the component that assures freedom from either a conflict of interest or ethical compromise, or the appearance of either. Specifically:

- (1) EAP Coordinators and Counselors will not have primary nor collateral duties as a Drug Free Workplace or Employee/Labor Relations Manager. If a Psychologist must serve in

an acting capacity as the administrative manager with oversight of the Drug Free Workplace or Employee/Labor Relations Manager (e.g., Acting Associate Warden), they must recuse themselves of Drug Free Workplace or Employee/Labor Relations Manager actions that pertain to any known EAP client.

- (2) It is a conflict of interest for EAP Counselors to conduct employee evaluations (e.g., fitness for duty, disability/workers compensation). Under no circumstances should these evaluations be assigned to a Bureau Psychologist. In the case of threat assessments, an employee's EAP Counselor will not sit on a threat assessment committee involving that employee.

- **Confidentiality.** Information concerning a client's status with the EAP may not be divulged without the express written consent of the client or as otherwise permitted by law (see EAP Consent for Release of Confidential Information-Redisclosure Prohibition (BP-A0907)). Disclosure of information without such consent is prohibited except in the following cases:

- (1) If a Bureau EAP Counselor has information suggesting an imminent and potential crime that directly threatens loss of life or serious bodily injury, it must be released to intended victims and/or law enforcement agencies (to include the CEO) to the extent necessary to prevent the potential crime.
- (2) Information regarding incidents of suspected child abuse or neglect must be reported to appropriate State or local authorities under State law. State and local laws may also govern the disclosure of other information (e.g., domestic violence, elder abuse). In the absence of applicable laws regarding domestic violence and elder abuse, if the EAP Counselor determines there exists an imminent and potential crime that directly threatens loss of life or serious bodily injury, the information will be shared with local authorities.
- (3) In medical emergencies, relevant information may be released to medical personnel.
- (4) Information may be released if authorized by order of a court of competent jurisdiction and deemed necessary in connection with the investigation or prosecution of an extremely serious crime or related to evidence in connection with litigation. Institution and/or Regional Counsel should be contacted immediately upon receipt of any court order requesting information. No release may take place, however, without review and approval of Regional Counsel.
- (5) For purposes of scientific research, audits (management and financial), and program evaluation, non-identifying, demographic information may be released to qualified personnel.

- **Informed Consent.** Ordinarily, before any employee discloses personal information with a Bureau EAP Counselor, they will be briefed on the EAP program's purpose and the limits of confidentiality.

- (1) The EAP Counselor will verbally discuss the EAP's purpose, which is to provide short-term counseling and referral services.
- (2) The EAP Counselor will verbally review the client's rights and the limits of confidentiality. The employee will be given the Statement of Client Understanding form (BP-A0906) to read and sign. If the employee signs the confidentiality statement, they indicate understanding of, and agreement with, the limits of confidentiality.
- (3) The EAP Counselor will verbally educate the employee about the EAP Consent for Release of Confidential Information-Redisclosure Prohibition form (BP-A0907) that will be required if the employee wishes information released. While consent may initially be given verbally (e.g., by telephone), it must be confirmed in writing.
- (4) If a supervisor has referred the employee, the employee and the EAP Counselor will discuss what information can be released, if any. Under no circumstances will an employee be required or coerced into providing consent for release of information.
- (5) Occasionally a crisis situation will arise when the normal discussion of confidentiality and EAP services must be given in an abbreviated form or given after the major point of crisis has passed. The EAP Counselor should carefully review the program and the limits of confidentiality with the client as soon as it is practicable to do so. This discussion should be documented in the EAP record.

- **Consultation and Supervision.** EAP Counselors may receive consultation and supervision on EAP cases without disclosing client name or identifying information. EAP Counselors will not identify EAP clients without a signed EAP Consent for Release of Confidential Information - Redisclosure Prohibition form (BP-A0907), except as permitted in Section 5 of this Program Statement.

6. SUPERVISORY REFERRALS.

Employees may be referred to the EAP by their supervisors based upon concerns about work performance, conduct, and/or attendance, or general concerns for personal well-being. When a supervisor notes such concerns, the supervisor may recommend to the employee that he/she meet with an EAP Counselor to receive information on EAP services.

Information obtained during counseling sessions will not be released to the supervisor, except as authorized by the staff member through a signed BP-A0907, EAP Consent for Release of Confidential Information-Redisclosure Prohibition form.

Supervisors may offer informal referral recommendations to employees at their discretion. These recommendations are not documented. Ordinarily, informal referrals are suggested as an early intervention or offered out of concern for an employee's well-being.

Formal Supervisory Referrals require the following operational procedures:

- Prior to making a Formal Supervisory Referral, the supervisor will discuss the case with a Bureau EAP Counselor. During this supervisory consultation, the EAP Counselor will

determine whether the employee is an appropriate referral and advise the supervisor of this finding.

- The supervisor will issue a written referral, recommending the employee seek EAP consultation. Ordinarily, the recommendation is also verbally communicated to the employee by the supervisor in a manner designed to reduce potential employee distress. This meeting recognizes the likelihood a Formal Supervisory Referral will be perceived as a disciplinary measure or adversarial in nature. The EAP Counselor will review the letter prior to issuance. The referral will:
 - (1) Document the reason for referral (e.g., work performance, conduct, attendance, and/or personal difficulties);
 - (2) Specify neither the documentation nor the referral to EAP constitutes a disciplinary action;
 - (3) State the supervisor has consulted with the EAP Counselor;
 - (4) Indicate the supervisor's work expectation;
 - (5) Indicate participating in EAP is voluntary, but recommended, and is confidential.
 - (6) The original letter will be given to the employee, with a copy to the EAP Coordinator. This letter must not be placed in the employee's official personnel folder.
- In the event a supervisor initiates a discipline, performance, or conduct based action, the supervisor should concurrently remind employees they may access EAP services regardless of their duty status. A referral for assistance shall not affect the processing of a disciplinary action.
- Supervisors must not diagnose or label an employee's problem. In exercising their responsibilities, supervisors must focus on job performance and/or conduct and communicate in a manner to foster engagement. However, these administrative tasks should not be prioritized over the needs of the employee as a person (e.g., providing support, acknowledging struggles, communicating in a way to foster engagement).
- Supervisors will protect the privacy of their employees by using appropriate discretion and professionalism regarding EAP services.
- Consistent with the Program Statement **Standards of Employee Conduct**, if a supervisor is aware an employee has engaged in a code of conduct violation, the supervisor will first report the known facts to management (their immediate supervisor, the CEO, the Office of Internal Affairs, or to the Office of the Inspector General at the Department of Justice).

7. REQUIRED CLINICAL DOCUMENTATION.

- **Case Record.** A record will be established for each EAP client when a Bureau EAP Counselor provides services. Records may be hand written or typed; if produced on a computer, no identifying information may be stored. The client will be informed a record will be created.

A case record does not need to be established when a Bureau EAP Counselor meets with an employee for the purpose of referring them to an External BOP Counselor.

- **Statement of Client Understanding.** An employee or family member will sign a BP-A0906, Statement of Client Understanding form, before receiving Bureau EAP counseling services.
- **Psychosocial Assessment.** Bureau EAP Counselors conducting counseling are required to complete an assessment (including current symptoms and relevant occupational, family, medical, and substance misuse history), and treatment or problem-solving plan.
- **Progress Notes.** Bureau EAP Counselors conducting short-term counseling will document the services provided. At minimum, the records will indicate the date the case was opened and closed, progress notes, referrals provided, and an outcome or treatment summary.

8. MANAGEMENT OF CLINICAL DOCUMENTATION. EAP records will be maintained in a system of records that is separate and distinct from any other record system. In accordance with 5 U.S.C. § 552a(e)(4), the Bureau EAP is required to publish a notice of the EAP Privacy Act system of records in the Federal Register.

- **Bureau EAP Files.** Bureau EAP files and other identifying EAP records (e.g., calendars, logs) will be secured in a GSA security-approved safe or equivalent as approved by the component's Security Program office. 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 which is stored within the EAP safe.
- **Client Access to Records.** Clients have a right to access their EAP records. EAP Counselors will provide assistance in interpreting the records and consult with the client regarding the records.
 - (1) **File Destruction.** All client records and other associated materials, regardless of the storage medium, will be destroyed by EAP personnel in accordance with the approved records retention schedule.

9. PROGRAM EVALUATION. Evaluation and monitoring of each EAP Program within the Bureau is accomplished at different levels of the organization to ensure quality of services. The Central Office Program Review Division evaluates policy compliance at each institution as a component of the Psychology Services Program Review. Operational reviews of Psychology Services are conducted annually within the institutions. In all cases, reviews must be conducted in the presence of the EAP Coordinator or designee. Examiners are restricted to evaluating only the record-keeping system and security of the files. They are strictly prohibited from reviewing the content of the files.

The National EAP Coordinator produces an annual report for the Bureau Executive Staff on staff support services that includes information about the utilization and effectiveness of the EAP. This report contains information on utilization of both Bureau and contract services. The report contains information on staff satisfaction that is collected through surveys, focus groups, or other methods of evaluation. This information is critical for effectively meeting the needs of Bureau staff.

REFERENCES

Program Statements

P3420.11 Standards of Employee Conduct (12/6/2013)
P3630.02 Leave and Benefits (2/1/2017)
P3735.04 Drug Free Workplace (6/30/1997)

DOJ Order 1200.1 Human Resources (HR) Order Employee Assistance Program, Part 7, Chapter 1
DOJ Order 1200.1 Human Resources (HR) Order Traumatic Incident Management, Part 7, Chapter 2

Rules cited in this Program Statement are contained in 5 CFR 792 (A) and 42 CFR 2; 5 U.S.C. 552a, 7901, 7904, 7361, 7362, 42 U.S.C. 290dd et seq., and 44 U.S.C. 3101.

Other References

Executive Order 12564, Drug Free Federal Workplace
Employee Assistance Law Answer Book, Sandra G. Nye, J.D.

ACA Standards

ACA Standards American Correctional Association Standards for Adult Correctional Institutions, 5th Edition: 5-ACI-1C-16 and 5-ACI-1C-24

American Correctional Association Performance-Based Standards for Adult Local Detention Facilities, 4th Edition: 4-ALDF-7C-01

American Correctional Association Standards for Administration of Correctional Agencies, 2nd Edition: None

Records Retention Requirements

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on Sallyport.