

CITY OF SACRAMENTO



EMPLOYEE ASSISTANCE PROGRAM

AND

ON-THE-JOB ALCOHOL/DRUG ABUSE POLICY

GUIDEBOOK

December 2008

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### Telephone Numbers

Department of Human Resources Benefits and Retirement Division	(916) 808-5665
Department of Labor Relations	(916) 808-5424
Managed Health Network (MHN)	(800) 227-1060

## **INTRODUCTION**

Since February, 1986, the city has contracted with Managed Health Network (MHN) to provide employees, supervisors and eligible family members with an Employee Assistance Program (EAP).

The EAP makes available assistance in the form of confidential, voluntary and free counseling to all employees and their eligible dependents who, for personal reasons beyond their control, cannot resolve the cause of their problems; and to the supervisor who can, in the form of the management referral process, utilize the EAP to restore troubled employees to their previous productive status.

Since the supervisor is the key person in making the program work, this guide is designed to provide an orientation to the goals of the program and the role of the supervisor in the program.

See Appendix A for specific instructions on the action to take if you have sufficient cause to believe that an employee is unfit for duty due to the influence of alcohol or drug abuse while at work.

## **THE GOALS OF THE EMPLOYEE ASSISTANCE PROGRAM**

The goal of the EAP is to assist troubled employees to clarify and resolve their concerns and to facilitate their involvement with an appropriate treatment or assistance process when indicated.

The program also provides an alternative for supervisors in dealing with employees with job performance problems or who are exhibiting deteriorating work performance or conduct problems. The alternatives open to management before the EAP were: (1) progressively stronger discipline until the employee's performance came up to standard; (2) discharge; or (3) toleration of the poor performance.

All three of the above are extremely costly. The last is the one we least like to admit. However, the EAP is a fourth alternative. The EAP represents a constructive alternative which helps both the individual and the supervisor in addressing complex personal problems which often affect job performance.

## **THE ROLE OF THE SUPERVISOR**

As a supervisor, you may be required to evaluate subordinates for promotion based on job performance, and to discipline along established guidelines for unsatisfactory work performance or undesirable conduct. The EAP does not change your responsibilities nor does it replace existing procedures for dealing with problem employees. See Appendix A for specific instructions on the action to take if you have sufficient cause to believe that an employee is unfit for duty due to the influence of alcohol or drug abuse while at work. This program does supplement the tools already available to you.

Your role and responsibility as a supervisor includes assisting employees to fully meet job performance standards. Any problem which substantially interferes with the fulfillment of this responsibility is a block to the achievement of good supervisory practice and, therefore, demands your direct and active concern.

The immediate supervisor is the key to the success of the EAP. You are most often the first individual to become aware of the employee's declining job performance. You can motivate the employee to seek appropriate help before the job performance has deteriorated to the point discipline becomes necessary.

The program never should be used as a "witch hunt" nor to intrude upon the private life of an employee. However, when there is evidence of deterioration from previously satisfactory work performance, your prime objective should be to correct the performance by motivating the employee to seek the help that is needed.

Never step out of your role as supervisor and discuss or attempt to diagnose an employee's "problem". Stick to work performance. It is not necessary for you to be an expert in defining symptoms of one problem or another. This would be counterproductive and a waste of time. Further, it would not be appropriate to require a supervisor to diagnose a mental health, drinking or drug problem.

The preceding information was intended to identify your role in general terms. The following pages provide more specific information and guidance.

## **SUPERVISOR'S GUIDE TO EAP**

The EAP is not a substitute for good supervisory practices, but it can be a valuable resource in helping resolve employee personal and performance problems. It can also be the final effort prior to formal discipline to salvage an employee whose performance deficiencies have not responded to normal corrective action due to underlying personal problems. In some cases, the poor performance itself is so obviously related to personal problems such as alcohol, drugs, or emotional instability that immediate efforts to get the employee to accept assistance without regard to previous behavior, performance, or corrective action is justified and appropriate.

Do not try to discuss your suspicions or concerns regarding the nature of the employee's underlying problem, but focus on the job performance problems. If an employee volunteers information that a personal problem is at the root of the poor work performance, a supervisory referral should be considered. If the employee tells you or the behavior indicates a drug or alcohol problem or other severe emotional problem is the basis of the poor performance, you should immediately consult with higher departmental authority and the Department of Labor Relations about a possible formal management referral to the EAP.

Do not accept an employee's admission of a problem as an excuse for continued poor performance. The advantage to the employee of accepting referral to the EAP is that it may be prior to disciplinary action and provides an opportunity to obtain counseling and resolves the performance problem by following the suggested plan of assistance recommended by MHN.

If the referral results in satisfactory work performance, there is no further need for a supervisor's intervention. If work does not improve after a reasonable period of time, appropriate disciplinary action should be initiated.

Do not hesitate to consult with the Department of Labor Relations when you have any questions on documentation and appropriate corrective action and prior to implementing formal disciplinary action which includes a letter of reprimand or higher. The supervisor should keep the Division Head advised of contacts with the Department of Labor Relations.

## TYPES OF REFERRALS

### Self-referral

Most referrals are self-referrals. Eighty-five to ninety percent of EAP services are provided to employees and eligible family members who voluntarily request counseling services by contacting MHN directly. These sessions are accorded the same confidentiality as the "physician-patient" relationship. Every employee is entitled to self-referral under the EAP. Eligible dependents are also entitled to self-referral. The benefit is as follows:

- 5 sessions per contract year per employee
- 5 sessions per contract year per spouse
- 5 sessions per contract year for all other dependents in the aggregate

### Informal Referral

An informal referral is one in which work performance is not yet directly an issue. A supervisor may be aware of an employee's health, behavioral, or personal problem and remind that employee of the EAP services available. As in the case of the self-referral, the employee calls MHN directly.

Sometimes an employee may turn to a supervisor for advice. You should listen with genuine concern, however when it comes to offering advice, it is best to proceed with caution and suggest that the employee use the EAP. Counseling is a professional skill requiring years of training and experience. It is not a good management practice to attempt to resolve your employee's personal problems. The very nature of the supervisor-employee relationship implies subordination and an employee may see you as a threat or you may part of the problem.

MHN treats this informal type of referral as a self-referral, even though the supervisor suggested that the employee call. The supervisor does not receive feedback about the employee from MHN.

### Supervisory Referral

A supervisory referral is one in which work performance is an issue. It is a tool used to facilitate problem resolution and improve work performance. It is not intended as a disciplinary measure but rather as a corrective action to return the employee to full performance as soon as possible and avoid the need for disciplinary action. Since substandard performance is unacceptable, the supervisor has a responsibility to both the City and employee to intervene **as early as possible**. Early intervention minimizes the problem and increases the chance of successful resolution.

In a supervisory referral, the supervisor works with an MHN Management Consultant to define the work performance problem. During the referral session itself, the MHN Counselor conducts an "assessment and referral". This means that the Counselor assists the employee in analyzing the work performance problem with respect to any underlying personal problems, motivates the employee to resolve the problems, develops a plan of corrective action with the employee, provides brief counseling and/or

refers the employee to available community resources for ongoing counseling, if appropriate. The employee may use the self-referral sessions to which he or she is entitled for such ongoing counseling.

### Formal Management Referrals

Generally, the reason for the formal management referral is poor job performance. The EAP provides a means for the individual to recognize his or her personal problems and become motivated to get help.

In order for the EAP to function effectively in handling formal management referrals, it is important that the supervisor understand his or her role in the process, the objectives of the EAP and the importance of employees becoming accountable for their actions. The implications of possible medical-behavioral or personal problems to the employee go well beyond the work situation if these problems remain unresolved. The supervisor must communicate with the employee as early as possible to provide the employee with a reasonable expectancy that these problems will be resolved and that the employee can possibly be returned to full potential.

It should be emphasized to the employee that the EAP is a constructive alternative for the employee, not a subtle form of discipline, and that the process works on behalf of the employee in situations which would otherwise deteriorate.

In specific cases involving the performance problems of a subordinate, the supervisor is encouraged to contact the Department of Labor Relations for advice and guidance prior to the actual confrontation with the employee. You will be given assistance regarding (a) the appropriateness and methodology of utilizing the EAP; (b) possible administrative courses of action; (c) methods for confronting the employee; and (d) how to increase the likelihood that the employee may be receptive to counseling.

The decision to offer the employee a formal management referral to EAP is made by the department head or designee and the Department of Labor Relations. Acceptance by the employee of the formal management referral may mitigate the proposed discipline.

If the employee is willing to make a commitment to treatment and to sign an appropriate contract to that effect, as well as a consent to release client records for progress, attendance and prognosis reports to be made to the City, the Department of Labor Relations will contact MHN and authorize the referral. A supervisor will be designated to monitor the employee's progress. The Department of Labor Relations will at the time of authorization:

- (a) obtain the name and phone number of the MHN Management Consultant and provide that information to the designated supervisor;
- (b) request that an initial counseling session be arranged; and
- (c) provide MHN with the name and phone number of the designated supervisor.

Thereafter, the MHN Management Consultant will contact the designated supervisor directly and provide the time and date of the first session and the name and address of the MHN-provided counselor. All status and progress reports will be made by MHN

directly to the designated supervisor, who will be responsible to monitor the employee's progress and to advise the Department of Labor Relations of any change in work performance.

The designated supervisor may be asked by MHN to provide pertinent job performance information. This information will be used by MHN to provide the employee with assistance, short-term counseling, and referral to community resources or long-term treatment.

Employees may use vacation, CTO or accrued holiday time for EAP appointments made during work hours. However, sick leave may be used where approved by the appointing authority and Department of Labor Relations, and consistent with the Civil Service Board Rules and Regulations.

### Critical Incident Referrals

A management referral as a result of a "critical incident" is significantly different from other referrals because the employee is required to attend. A "critical incident" typically involves a particularly stressful incident on the job where: (a) the employee's life has been placed in mortal jeopardy; (b) the employee has been on the scene when a fellow employee was killed or seriously injured; or (c) the employee has been exposed to an unusual experience involving death or grave physical trauma.

The purpose of the referral is to prevent the development of post-traumatic stress response by providing a critical incident "debriefing" session with a counselor, ideally between 8 and 72 hours after the incident. The session gives the employee, or group of employees, an opportunity to discuss feelings and reactions and receive information concerning what is being experienced at the time; what may be expected in the immediate future (e.g., flashbacks); and the various emotional phases an individual may expect to experience in integrating the event.

Since the employee's attendance at a critical incident debriefing is mandatory, it is scheduled on paid City time with no charge to the employee. However, if the employee feels additional counseling is needed, the employee makes his or her own arrangements.

If a supervisor believes that a critical incident has occurred and a debriefing may be appropriate, MHN should be contacted immediately, utilizing established departmental procedures.

If the department has no established procedure for critical incident referral, the supervisor should immediately recommend to the department head or designee that a debriefing session be arranged through the Department of Human Resources. If the Department of Human Resources agrees, they will contact MHN for consultation regarding the incident and the need for a debriefing. The Department of Human Resources will then advise the department head or designee when and where any debriefing will take place and the name of the clinician.

## THE REFERRAL PROCESS

This section is intended to assist you in understanding how to use the MHN system to make a supervisory referral. It takes you from your initial awareness of a performance problem to your final action on the matter. Every case, like every employee, has its own individual considerations.

When health, behavioral, or personal problems develop in your employees' lives, certain signs of these problems become more apparent in the marketplace. You should note your employees' appearance, amount of absenteeism, and changes in conduct, behavior, attitude, and work performance. When these indicators are not positive and clearly affect the level of performance you expect, take prompt action.

Refer to Appendix B for patterns of job performance deterioration. If you are aware of an employee problem which does not affect work performance, you may wish to make an informal referral. If one of your employees admits to you that he or she has a substance abuse problem, you should contact the Department of Labor Relations immediately.

### MHN Management Consultant

As a supervisor, you have unlimited access to MHN Management Consultants. For confidential consultation regarding your specific situation, call MHN at 415-461-3455 and ask to speak with a Management Consultant.

The Management Consultant will work with you to determine if a supervisor referral is appropriate action for the situation. If a supervisory referral is appropriate, the Consultant will guide you in presenting the problem and your expectations to the employee.

### Meeting with the Employee

The following steps should be taken during your meeting with the employee:

- Specify the nature of the unacceptable work performance, including dates, times, and incidents. It is most effective to put this information in the form of a written memo.
- Clearly identify and document your expectations for improved performance.
- Explain the nature of the EAP, noting that there is no charge to the employee and that the program is voluntary and confidential. There are a few exceptions to confidentiality, however, since the law requires reporting incidents of child and elder abuse, and situations where persons are dangerous to themselves or others. It also requires responding to subpoenas and court orders.
- Explain the positive objective of the supervisory referral, i.e., improvement of work performance, so that no future disciplinary or administrative action is necessary.

- State that regardless of whether the employee uses the EAP, other actions will be taken if there is no improvement in performance.
- Inform the employee that you will provide information to the MHN Management Consultant regarding the work performance problem.
- Explain that MHN will provide you with specific and limited information only with the employee's signed Consent to Release Client Records (see below). The content of the counseling session is confidential.
- Clarify with the employee whether the initial session with the MHN counselor is to be on vacation, holiday credit, CTO, or without pay.
- Ask whether the employee plans to accept or refuse the supervisory referral.
- Have the employee sign and the supervisor witness the Consent to Release Client Records (attachment 1). Keep a copy, give a copy to the employee, and forward the original to MHN.

Arranging the Appointment

Advise your MHN Management Consultant whether the employee has accepted or refused the referral. Provide any new information obtained. If the employee refuses assistance, and the "reasonable accommodation" requirement is otherwise satisfied, the employee retains the sole responsibility to resolve his or her problem and improve work performance. Refer to Appendix C for a brief explanation of "Reasonable Accommodation".

If the employee accepts the referral, the MHN Management Consultant will make the appointment and give you the name of the MHN Counselor, and the time and place of the counseling session. You will then give this information to the employee.

In this way, you will know that the employee intends to use the EAP service and you will be informed if the employee fails to attend the first session. If you do not schedule the session, MHN will treat the employee as a self-referral, and you will not receive feedback from the Management Consultant.

Consent to Release Client Records

After the first and following sessions, you will be notified of the limited information the employee voluntarily consents to be released. The MHN counselor may request the employee to sign an additional Consent to Release Client Records. With a voluntary, signed consent, the MHN Management Consultant is authorized to advise the supervisor of the following basic information about the employee's status:

- Attendance Did the employee attend the counseling session?

- Reasonable Accommodation                      Are there any special you should make to assist the employee in the implementation of the plan?
  
- Time Frame for Improved Performance      Given the employee's active participation in the plan, when should improvement in the work performance be expected?

The purpose of the consent is to provide the supervisor with the information necessary to evaluate the employee's motivation to correct the work performance problem and to provide reasonable accommodation when appropriate. **NO CONFIDENTIAL INFORMATION REGARDING THE NATURE OF THE EMPLOYEE PROBLEM WILL BE RELEASED.**

Feedback Process

The supervisor contacts the MHN Management Consultant who, in turn, works with the MHN Counselor. The MHN Counselor reports back to the MHN Management Consultant who then provides limited feedback to the supervisor with the employee's voluntary, signed consent. The supervisor does not have any contact with the MHN Counselor in order to assure the confidentiality of the process.

Documenting the Referral

Whether the employee accepts or refuses the supervisory referral, you should document all relevant information and continue to monitor work performance. Keep an ongoing file until the problem is resolved.

Many departments do not maintain documentation in the employee's formal personnel file. Collective bargaining agreements may specify proper documentation and filing. If documentation is not placed in the personnel file, it should be placed in a private file for possible future reference. If the case proceeds to disciplinary or administrative action, you will want to document in writing that you made the supervisory referral.

Disciplinary or Administrative Action

The supervisory referral is not intended to harbor an employee from disciplinary or administrative action. You should continue to meet with the employee and document unacceptable work performance. If work performance has not improved after the supervisory referral, appropriate disciplinary or administrative action may be warranted.

Quality Assurance

Maintaining client satisfaction is an important organizational goal for MHN. In order to evaluate the effectiveness of their service, MHN sends a confidential questionnaire to each supervisor 90 days after the completion of the supervisory referral. MHN carefully reviews each questionnaire and takes appropriate corrective action warranted.

### Broad Range of Problems

Supervisors are encouraged to use the Employee Assistance Program as a corrective action when there is a work performance problem caused by health, behavioral or personal problems. Among the broad range of problems, including elder care, child care, legal, financial, marriage, family, relationship, stress, and emotional/behavioral, one of the most common is chemical dependency.

Many supervisors have difficulty specifically in dealing with chemical dependency problems among subordinates or coworkers. If one of your employees admits to you that he or she is chemically dependent or has a substance abuse problem, contact the Department of Labor Relations immediately. Also, refer to Appendix A for specific instructions on actions to take if an employee is unfit for duty due to the influence of alcohol or drug abuse while at work.

## **CONFIDENTIALITY OF RECORDS AND INFORMATION**

All information about any matter regarding the employee's problem, as a result of participation in the program, shall not be disclosed to anyone without the written consent of the employee. The key to a successful program is confidentiality. The employee must believe, and this belief must be justified, that assistance will be provided without fellow employees and peers knowing about the problem or the referral. In this regard, a supervisor who knows a subordinate is using the program should not discuss the matter with others.

In the case of a formal management referral, the employee must sign a written waiver giving permission for MHN to report the employee's progress, attendance and prognosis to the designated City supervisor. Reports are not to be disclosed to anyone other than those individuals connected directly with the disciplinary process.

## **QUESTIONS AND ANSWERS ABOUT THE EMPLOYEE ASSISTANCE PROGRAM**

1. Can an employee be required to attend a counseling session?

No. The only exception is a “critical incident”. Critical incidents are work-related experiences which are of such an unusual or shocking nature that a “debriefing” or discussion with a trained counselor is scheduled in order to minimize psychological effect. Confidential follow-up counseling or treatment beyond the first critical incident counseling session would be at the employee’s discretion.

2. On occasions other than in-lieu-of-discipline referrals, must an employee notify his or her supervisor when the employee wants to utilize the counseling program?

No. One of the basic elements of the EAP is its confidentiality. The employee should call one of the numbers in the brochure and arrange his or her own appointment.

3. If an employee discloses to his or her supervisor or if the supervisor discovers that an employee is having an off-the-job problem, may the supervisor suggest that the employee use the EAP?

Yes. It is all right to tell the employee about the EAP. However, the supervisor should not assume the employee has a problem unless the employee specifically discloses it to the supervisor. The supervisor’s involvement should not continue beyond providing information to the employee regarding the EAP.

4. Can an employee be disciplined for information or statements given to an MHN counselor or if an employee voluntarily enrolls in a drug/alcohol abuse program in the absence of an in-lieu-of-discipline referral?

No. Because of the confidentiality of the EAP, the City will not have knowledge of employee statements or program enrollments. In addition, discipline is considered only when job performance or job-related conduct is substandard.

5. If an employee schedules a counseling session during work hours, can sick leave be used?

No. Sick leave is limited to: personal illness or injury that physically incapacitates an employee from performing regular duties; medical, dental and eye examination, or treatment for which appointments cannot be made outside of work hours; childbirth or miscarriage; exposure to contagious disease when the presence of the employee for duty would endanger the health of others; and special leave specified in the Civil Service Rules. An employee may, with prior approval, utilize other accrued paid time off; i.e., floating or accrued holiday time, vacation or CTO. However, sick leave may be used for formal management referrals where such use is approved by the appointing authority and Department of Labor Relations, and consistent with the Civil Service Board Rules and Regulations.

6. May an employee obtain counseling during scheduled working hours without a loss in pay?

Yes. Although counseling services should be scheduled during non-work hours, an employee could utilize accrued or floating holiday time, vacation or CTO when the time away from work is approved in advance and it is not possible to obtain a counseling appointment during non-work hours.

7. Can the EAP be used in-lieu-of-discipline for poor job performance?

That is an option the City has which may be exercised on a case-by-case basis. If the City decides to exercise that option, it would be only in those cases where the employee agrees in advance and is willing to sign a waiver form so MHN could release progress reports. In such a case, the referral would need to be approved by and coordinated with the Department of Labor Relations.

8. If an employee is dissatisfied with the services provided by CHS, what should the employee do?

This will depend on the nature of the employee's complaint. If the employee is dissatisfied with the counselor or counseling received and wishes to maintain the full confidentiality of using the EAP, they should telephone MHN at 800-227-1060 and ask to speak with the Clinical Director. For other problems, the employee can contact the Program Manager at 415-461-8100. The employee may also contact the Department of Human Resources at 808-5665 and MHN will be contacted on the employee's behalf.

9. What does it cost an employee to use the EAP?

The number of free sessions each contract year (March through February) is five for the employee, five for the employee's spouse and five in the aggregate for the employee's dependent children. Unused sessions cannot be carried over from one contract year to the next. Each financial, legal, childcare, eldercare, taxpayer referral service, or other telephone consultations and each face-to-face meeting with a counselor counts as one session. Each session lasts up to 60 minutes with the following exceptions:

Legal Consultations	up to 30 minutes per session
Taxpayer Referral Service	a total of 90 minutes per benefit period per family unit

10. Who is eligible to use the EAP?

All City employees, their spouses and dependent children eighteen (18) years of age and younger or twenty-two (22) years of age and younger, if full-time students, or over the age of eighteen, if incapable of self-sustaining employment by reason of physical or mental handicap, are eligible. This includes career employees and all non-career, limited-term, seasonal and part-time employees, beginning the first day of employment.

## **THE PROBLEM DRINKER ON THE JOB**

The problem drinker generally has a compulsive, uncontrollable urge to drink. The drinking interferes with normal living by creating problems in daily life. The individual is often physically and mentally unable to handle alcohol. The importance of alcohol eventually outweighs all other considerations, affecting family, friends and job.

Because compulsive drinking gets progressively worse, it is very important that we discover an employee who has a drinking problem as soon as possible. By identifying the problem drinker early enough, we may be able to offer rehabilitation. We must remember that alcoholism can be just as relentlessly progressive and destructive as cancer if it is not treated in its early stages. The alcoholic needs help and needs it in the earliest possible stages of the disease. Waiting for an alcoholic to realize he or she needs treatment is simply a mistake. The individual is likely to become less willing to seek treatment, not more willing. The disease is progressive. It never plateaus. It always worsens.

### When Drinking Becomes A Problem

Alcoholism in the workplace can be defined as habitual poor job performance resulting from excessive drinking. The problem drinker in turn has an effect on job operations as for as the supervisor, peers and subordinates are concerned. Job performance is the key to your role as a supervisor. You are in a unique position of knowing the job requirements of each position in your unit and are at least generally familiar with the present and past performance of each employee. You are the one who is in the best position to notice a deterioration in performance.

### How To Recognize A Problem Drinker On The Job

Overall job performance includes work, behavior and attendance patterns. You are aware of many of the signs of deteriorating performance. The following signs may indicate an alcohol abuse problem:

1. Reduction in efficiency and dependability.
2. Decreasing reliability evidenced by an inclination to put things off, a tendency to neglect details formerly pursued, placing blame on other workers, a desire for different job assignments, and seeking loans from fellow employees.
3. Memory blackouts.
4. Unexplained disappearances by the employee from the work assignment.
5. Attendance problems evidenced by frequent Monday, Friday, post-holiday and post-payday absence and tardiness, unexcused absences, excessive disability, repeated short absences, improbable excuses for absences, and excessive tardiness.
6. "On-the-job" absenteeism, such as continued absences from work station, increasingly long lunches and coffee breaks.

7. Complaints of physical illness related to colds, gastritis, flu, stomach conditions, headaches, and other ailments more often than other employees.
8. Friction with other employees evidenced by wide swings in mood, unreasonable resentments, irritability, emotional outbursts, temper tantrums, and physical violence.
9. Complaints from the public or from other employees regarding the employee's behavior.
10. Moodiness and unusual sensitivity leading to arguments or disinterest in the job.
11. Marked sensitivity to suggestions from others that alcoholism is the problem.
12. Odor of alcohol on his or her breath during work hours.
13. A marked change in appearance, such as swelling of the face, flushed face, red or bleary eyes and increasing carelessness in dress and appearance.
14. Frequent on and off-the-job accidents.
15. Evidence of domestic discord.
16. Increasing financial trouble.
17. Drinking habits which differ from most people, such as faster drinking, sneaking drinks, drinking longer or heavy spending on alcoholic drinks.

#### Remedial Steps To Be Taken

If you supervise someone with a job performance problem and suspect a drinking problem, the sooner you face the situation the better. Do not cover up for the employee. No matter how well meant such an attitude is, it is a disservice to the employee. The earlier the treatment, the greater the hope of rehabilitation. You can help by catching it early. No matter how fiercely the alcoholic fights those who want to help, the employee can be helped more often than not. Generally, alcoholics do not accept help until a crisis backs them in a corner and forces them to seek help. You, the supervisor, can set the stage for the "crisis". It is a myth that alcoholics have spontaneous insight and then seek treatment.

Instead of covering up, start as soon as possible with a down-to-earth private discussion with the employee. Plan the interview meticulously and be well informed with facts and observations to back up the firm approach you will take.

Prepare a carefully written record of all instances of job performance, behavior and attendance that are above or below what is expected. Tell the employee what you have observed, referring to your documentation. Do not diagnose or get involved in a detailed discussion of the employee's personal problem and reasons for it. You are evaluating job performance. Do not discuss your suspicion of a drinking problem unless the use of alcohol has been apparent on the job. Explain in detail the reasons you are concerned about the employee's performance. For example:

1. The specific aspects of the work which are not meeting your expectations for a person with the amount of training and years of experience as the employee.
2. The employee's personal record of tardiness, sick leave or leave without pay according to the performance and attendance standards that you have established.
3. The employee's personal relations with other employees.
4. The employee's safety record on the job.
5. Changes in the employee's personal and/or physical appearance as it relates to the job.
6. Odor of alcohol on the employee's breath.
7. Complaints about the employee from citizens and other employees.

You will need all the understanding, patience, perseverance and firmness you can muster if you are to succeed. Be firm about the employee's deficiencies and the fact that you will no longer tolerate them.

If the employee mentioned an alcohol problem or if the use of alcohol has been obvious on the job, the employee should also be told that the City has an excellent EAP and group health plans (if the employee is eligible) for rehabilitation which the employee could utilize. This should be suggested in a genuine spirit of help and not as a disciplinary action.

Tell the employee that he or she faces possible performance-based action unless performance improves and again encourage the employee to seek an evaluation and recommendations for treatment from the EAP.

If you have cause to believe the employee is unfit for duty due to the influence of alcohol while at work, you should follow the Personnel Policy Instructions outlined in Appendix A.

## **DRUG-FREE WORKPLACE POLICY**

In accordance with the federal grant requirements established by the Drug-Free Workplace Act of 1988, the policy of the City of Sacramento regarding a drug-free workplace is as follows:

1. Unless legally authorized to do so, employees are prohibited from manufacturing, distributing, dispensing, using, consuming, injecting, possessing, being under the influence of, selling or offering for sale, in the workplace or while on duty, any controlled substance as the latter term is defined in the California Health and Safety Code.
2. An employee shall notify his/her immediate supervisor of any criminal drug statute conviction he/she received for a violation occurring in the workplace or while on duty no later than five (5) calendar days after such conviction.

The city will notify the federal agency in writing within ten (10) calendar days after receiving notice of conviction from the employee. The City will also take at its discretion, one of the following actions within thirty (30) calendar days of receiving notice of conviction from the employee:

- a. Take appropriate personnel action against the employee, up to and including termination; or
  - b. Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program.
3. A violation of this policy will subject an employee to disciplinary action, up to and including termination.

The City is committed to providing a safe workplace for its employees. An essential part of this commitment is keeping the work environment free from drugs. The Employee Assistance Program was established in recognition that substance abuse can be effectively treated and abusers rehabilitated.

**Attachment 1**

CONSENT TO RELEASE CLIENT INFORMATION

I, [Employee Name], hereby authorize the Managed Health Network (MHN) to disclose records pertaining to my participation in the Employee Assistance Program (EAP) to:

[Department Representative, Title, Phone Number]  
[Labor Relations Representative, Title, Phone Number]  
[Safety Representative, Title, Phone Number]  
Department of Labor Relations  
915 "I" Street, Admin Bldg, Room 4133  
Sacramento, CA 95814-2604

Such disclosure shall be limited to the following specific information:

- Attendance
- Reasonable accommodation
- Time frame for improved performance

The disclosure of information or records authorized herein is required for the following purpose:

to provide the supervisor with information necessary to evaluate my participation toward correcting the work performance problem, and to provide reasonable accommodation for me if appropriate and possible.

This consent is subject to revocation by the undersigned at any time except to the extent that action has been taken in reliance thereon. If not earlier revoked, it shall terminate on [date five years from memorandum of understanding].

DATED:  [Date Presented]

\_\_\_\_\_  
Client

\_\_\_\_\_  
Authorized Representative

My initials \_\_\_\_\_ indicate that I have received a copy of this consent to release records.

## **Appendix A**

### **CITY ON-THE-JOB ALCOHOL/DRUG POLICY INSTRUCTIONS PERSONNEL POLICY INSTRUCTIONS**

#### **1. Purpose**

It is in the best interest of the City and its employees that immediate action be taken whenever there is sufficient cause to believe that an employee is unfit for duty due to the influence of alcohol or drug abuse while at work.

#### **2. Scope**

All City management and supervisory employees shall follow this policy when dealing with subordinate personnel in civil service classifications.

#### **3. Procedure**

If the supervisor observes that while at work the employee has the odor of alcohol, slurred speech, hand tremors, unsteadiness, disorientation, drowsiness, difficulty in performing job duties, or exhibits other behavior reasonably indicative of being under the influence of alcohol or drugs, the following action shall be taken:

##### **A. Initial Action**

If the supervisor is reasonably suspicious that there is a job performance problem due to drugs or alcohol, the employee shall be immediately relieved of duty. The supervisor shall obtain a concurring opinion, if circumstances permit, from another supervisor or higher authority. The supervisor shall meet with the employee, describe what was observed, and ask the employee for an explanation. The supervisor should, whenever possible, arrange to have another employee present as a witness.

- 1) If the supervisor is satisfied that the employee's behavior is related to medication prescribed by his/her physician, the supervisor shall determine if the employee is able to continue working, should be temporarily reassigned or should be relieved of duty and transported home. Accrued leave time may be authorized when the employee is relieved of duty. The employee shall be directed to obtain from the City physician medical clearance to return to work, including verification of any prescribed medication and dosage, including a statement of the probable effects of the medication on job performance.
- 2) If the employee admits to the supervisor to being under the influence of alcohol or illegal drugs not prescribed by his/her physician, the employee shall be relieved of duty and placed on unpaid status for the balance of the shift.

B. Medical Evaluation

In the absence of an admission, or if the supervisor is not convinced that the employee's condition is due to prescribed medication, the supervisor shall contact the Department of Labor Relations at 808-5424. If the Department of Labor Relations is not available, the supervisor shall telephone higher departmental authority for instructions.

- 1) If available, the Department of Labor Relations will determine whether the employee is to be examined by a City physician and will make necessary priority arrangements through the Department of Human Resources to have the employee examined by a City physician. The Department of Human Resources will advise the supervisor when and where to transport the employee.
- 2) If the Department of Labor Relations is not available and higher authority has determined that the employee should be examined by a City physician, such higher authority shall contact the following to make a priority appointment to have the employee examined for possible testing:

Primary Facility

Medical Clinic of Sacramento  
3160 Folsom Boulevard  
Sacramento, CA 95815

733-3390, Monday - Friday  
7:00 a.m. to 5:00 p.m.

733-3377 (holidays, weekdays  
5:00 p.m. – 9:00 p.m.; weekends  
9:00 a.m. – 5:00 p.m.)

Secondary Facility (only if primary facility is unavailable)

Mercy General Emergency Room  
4001 J Street  
Sacramento, CA 95815

453-4424

The City physician shall, after personally observing the employee and conducting such reasonable physical examination of the employee as is necessary under the circumstances, determine by reasonable medical judgment whether the employee is to be tested for being under the influence of alcohol or drugs.

- 3) The supervisor shall direct and accompany the employee to a City physician who will determine the employee's fitness for duty. The supervisor shall inform the employee of the following: a) the employee appears to be unfit for duty due to being under the influence of alcohol or drugs; b) the employee will be on authorized City-paid time while taking the test; c) the City will pay for the test; and d) the City will provide transportation to and from the medical facility.

- a) If the employee refuses to comply with the supervisor's direct order to submit to medical evaluations and necessary tests, the supervisor, with a witness present, shall advise the employee that failure to comply with this direct order is insubordination, which in and of itself is cause for disciplinary action, up to and including termination. The supervisor shall then repeat the direct order. If the employee still refuses to comply, the supervisor shall immediately relieve the employee of duty and advise the employee that a) the employee has been insubordinate; b) the employee will be off work on paid administrative leave status for the balance of the shift; c) the employee is subject to disciplinary action, up to and including termination; and d) to report to the supervisor's office the next working day at a specified time.
- b) If the employee agrees to medical evaluation and testing, the supervisor, with another employee to assist and act as a witness, if available, shall transport the employee to the examination site, remaining with the employee at all times possible. The supervisor should make appropriate arrangements to have another employee assume the supervisory responsibilities, if necessary. The supervisor shall ask the physician if tests were ordered and shall confirm that the employee actually complied with the order and that specimens were taken. After the physician has completed the examination and any ordered specimen(s) have been taken, the supervisor shall obtain the physician's immediate written determination of the employee's fitness for duty at that time and when the employee can be returned to duty. The supervisor shall then return with the employee to the department.
- c) If the supervisor determines that the employee is unfit for duty due to alcohol or drug abuse, the supervisor shall advise the employee that the employee is (1) unfit for duty; (2) will be off on unpaid status for the balance of the shift; and (3) is subject to disciplinary action up to and including termination. The supervisor will further direct the employee when and where to report for duty, based upon the physician's written determination.

#### 4. General

- A. If the employee is sent home for being under the influence of alcohol or drugs, the supervisor shall make arrangements for the employee to get home without driving.
- B. The supervisor shall document in detail his/her personal observations of the incident prior to the end of the workshift.
- C. The supervisor shall contact the Department of Labor Relations at 808-5424 for assistance and to initiate appropriate disciplinary action.

## **Appendix B**

### PATTERNS OF JOB PERFORMANCE DETERIORATION

There are a number of indicators that, under the proper circumstances, point to a deteriorating work performance. When these indicators appear in isolated instances, they may be of no significance. The key words in relation to the job performance problems noted below are “continuing” and “repeated”. In the case of a troubled employee, a pattern of job performance deterioration should begin to appear. When it does, it is very important for the supervisor to document the actions and incidents which are unacceptable.

#### 1. Absenteeism

The patterns of absenteeism vary from person to person, whether the problem is alcoholism, drug abuse, emotional, marital, financial, etc. The following are some of the incidents that make up these general patterns when continued or repeated. Generally, any excessive absenteeism and increases in absenteeism should be noted.

- a. Frequent unauthorized leave.
- b. Excessive use of sick leave (e.g., long service but low accrual balance).
- c. Frequent absences preceding or following regular days off.
- d. Repeated absences of 2-4 days.
- e. Repeated absences of 1-2 weeks.
- f. Excessive tardiness, especially following regular days off or returning from lunch.
- g. Frequently leaving work early.
- h. Peculiar and increasingly improbable excuses for absences.
- i. Higher absenteeism rate than other employees for minor ailments such as colds, flu and gastritis.
- j. Frequent unscheduled short-term absences (with or without medical explanation).

#### 2. “On-the-Job” Absenteeism

- a. Continued absences from assigned post more than the job requires.
- b. Frequent trips to the water fountain or bathroom.
- c. Repeated long coffee breaks.

- d. Continued or repeated illness on-the-job.
- 3. High Accident Rate
  - a. Frequent accidents on-the-job or off-the-job.
  - b. Frequent trips to the doctor's office.
- 4. Difficulty in Concentration
  - a. Work requires great effort.
  - b. Jobs take more time than they did in the past.
  - c. Nervousness first thing in the morning or increased nervousness as the day wears on (e.g., easily excited/irritated; jumpy; uneasy; unsteady).
- 5. Confusion
  - a. Difficulty in recalling instructions, details, etc.
  - b. Increasing difficulty in handling complex assignments.
  - c. Difficulty in recalling mistakes.
- 6. Spasmodic Work Patterns

Alternate periods of very high and very low productivity.
- 7. Tenacity to Job – Does Not Want to Change Assignment or Jobs

This may present a threat because the employee's control of the present job allows the concealment of poor job performance. (This alone should not be deemed a need for the EAP since some employees do not wish to change jobs for reasons not related to poor job performance.)
- 8. Reporting or Returning to Work in an Obviously Abnormal Condition

The employee may show a moody, cavalier or disinterested attitude; may have a marked change in appearance, such as flushed face, watery eyes or disheveled dress; or may be have difficulty concentrating, be sleepy; or have difficulty performing job tasks.
- 9. Generally Lowered Job Efficiency
  - a. Misses deadlines.
  - b. Makes mistakes due to inattention or poor judgment.
  - c. Wastes more material.
  - d. Makes bad decisions.

- e. Complaints from citizens.
- f. Improbable excuses for poor job performance.

#### 10. On-the-Job Employee Relationships

Friction in employee relationships, including supervisor-employee relationships, usually results in decreased job performance and efficiency. The following are indicative of behavior that affects job performance and may be indicative of problems, possibly alcoholism, drug abuse or emotional problems.

- a. Over-reacts to real or imagined criticism.
- b. Wide swings in morale.
- c. Constantly borrowing money from co-workers.
- d. Complaints from co-workers.
- e. Unreasonable resentments.
- f. Begins to avoid associates.

These foregoing patterns apply to all employees in general.

In specific relation to management, however, there are other key indicators which are largely dependent on the level and type of management position involved. On the first management level, a supervisor may begin to let safety standards slip, issue conflicting instructions to employees, use employee time and skills inefficiently, submit incomplete reports and data or become lax in supervisory duties. On higher management levels, patterns of declining job performance are more subtle. Budgets may begin to be mismanaged, schedules fail to be coordinated, the work unit delays proper service, and so on. The quality of decisions made by management personnel is crucial in this regard. Managers who begin to make decisions on the basis of insufficient data and poor judgment can significantly impair the efficiency of an organization.

In summary, all employees exhibit some of these job performance problems occasionally. It is a pattern of job performance problems over a period of time (several weeks) that should be noted and documented. The supervisor is not expected to be a diagnostician. Identification and formal management referral is to be based strictly on deficient job performance. The responsibility to correct unsatisfactory work performance or job-related behavior resulting from personal problems rests with the employee. Failure to do so, for whatever reason, should result in appropriate corrective or disciplinary action.

## **Appendix C**

### REASONABLE ACCOMMODATION

Federal law requires "any program or activity receiving Federal financial assistance" to "reasonably accommodate" the "known physical or mental limitations of an otherwise qualified handicapped. . . employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program". State or local law may also impose a similar requirement.

Employers subject to Federal and similar laws must provide an opportunity for rehabilitation to employees with "alcohol, drug, or emotional problems" affecting their work performance before taking disciplinary action or the action may be reversed by a reviewing authority. One or more formal supervisory referrals to the Employee Assistance Program are such an opportunity. Other actions of accommodation may also be required.

However, reasonable accommodation is not required if it would cause the employer undue hardship in conducting business. The nature of the employee's work and conduct, and all other facts and circumstances of each individual case must be balanced and weighed.

For advice and assistance regarding reasonable accommodation, consult with the Equal Employment Officer in the Department of Human Resources, 808-5270.