

## **CHECKLIST OF CONSIDERATIONS IN DESIGNING AND ADMINISTERING EMPLOYEE ASSISTANCE OR PROFESSIONAL COUNSELING SERVICES PROGRAMS**

- \_\_\_ Establish routine periodic meetings between the consulting services organization representative and the company liaison representative to discuss interface problems, conflicts, etc.
- \_\_\_ Make it perfectly clear to the services representative that the consulting service organization does not have authority to issue job performance variances, exemption from overtime requests, or to instruct employees to in any way refrain from dealing with or following instructions of supervisors.
- \_\_\_ The services representative should be told to question the employee regarding job performance problems: "Have you discussed this with your supervisor?" "If not, why not?"
- \_\_\_ The consulting services representatives should be aware of the employer's policies and Collective Bargaining Agreement and should not compromise either the company or the union positions or obligations. The service representatives SHOULD BE TOLD, "You are to professionally COUNSEL the individual, not BARGAIN with either the employee, the union, or the company."
- \_\_\_ Review the grievance procedure with the consulting services representative and emphasize that the counseling services are not intended to replace the grievance procedure nor to bypass or frustrate the grievance procedure.
- \_\_\_ Train supervisors to direct employee inquiries through a company personnel service representative. Supervisors should not become involved in intervention activities or in professional referrals, other than referrals to the EAP representatives or to the employer's medical representatives.
- \_\_\_ Establish a company confidential liaison supervisor to be the direct contact between the consulting services personnel and the company, and insist on routine periodic communication. Review the employer's definition of CONFIDENTIALITY with the consulting services personnel. If the consulting services personnel cannot or will not agree to the employer's confidentiality definition, the employer should not contract with that services firm.
- \_\_\_ Utilize a CONFIDENTIALITY STATEMENT such as the following:

### **SAMPLE EAP CONFIDENTIALITY STATEMENT**

Participation in the EAP is treated on a confidential basis, except in those instances when the EAP is legally obligated under federal or state regulations to notify the employee's physician or when an employee's condition constitutes a hazard to themselves or others or when the employee's conduct is unlawful.

- \_\_\_ Require the consulting services to maintain records of exact dates and times when the employee attends, ESPECIALLY if the employer pays for the services and for the employee's time.
- \_\_\_ Arrange with the consulting services representative to provide alternate meeting times to accommodate production/operation requirements and to arrange meetings to avoid multiple employees from being present, simultaneously, and to avoid having employees and supervisor from being present, simultaneously. Maintain SEPARATE services for supervisory and bargaining unit employees; or, if only one service is available, utilize different times and locations for hourly and salaried employees.
- \_\_\_ Establish EXTREME CONFIDENTIALITY regarding procedures for supervisors and employees availing themselves of such services, and formally protest to the services firm any and all breaches or irregularities.
- \_\_\_ Learn what the specific sickness/illness/emotional problems are, especially where a company is paying for the time under a sick leave or sickness policy provision, and especially when such problems may result in workplace altercations, etc., consistent with the CONFIDENTIALITY STATEMENT above. If employees refuse to identify or release at least general information to the company regarding the nature of their "personal or private problems," then the person should not be permitted to utilize the employee's visits to the consulting services as mitigating circumstances regarding disciplinary action for job performance deficiencies, if mitigation consideration is given.

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- \_\_\_ In the event an employee discloses to the services counselor that the company is violating a federal, state, or local law (for example, if sexual harassment is involved) require the services representative WHO IS ACTING AS THE COMPANY AGENT to inform the company liaison representative of the situation consistent with the above CONFIDENTIALITY STATEMENT. If the company is paying for the services, the performer of the services is an agent (contractually). The services representative's awareness/knowledge is legally the company's awareness/knowledge; and the company in many cases is required by law to take immediate, effective, and appropriate action regarding any violations of which it could or should have known.
- \_\_\_ In company-sponsored programs, identify a maximum period (number of visits) of no "symptomatic relief and improvements" before there is discussion between the company and the services representative regarding continuation of services or continued consideration of "illness" or "problem" as a factor mitigating job performance deficiencies, especially if mitigation consideration is provided for.
- \_\_\_ Make absolutely sure that BEFORE establishing a consulting services program, the consulting services representatives meet with managers and supervisors and employees at all levels and explain their program; and at the same time allow questions to be raised for clarification.
- \_\_\_ Periodically conduct "refresher/awareness" reaffirmation training to maintain awareness of and confidence in the program. While consulting services representatives should discuss typical examples of success stories/cases and typical applications/experiences, such discussions should not reflect actual cases of the employer.
- \_\_\_ Review with the legal department the area of VICARIOUS LIABILITY and AGENCY LIABILITY, both from the standpoint of liabilities for the actions or treatment of the consulting agent and for illegal company actions cited by the employee in counseling.
- \_\_\_ Make absolutely certain the employer legal department and the employer medical department and labor relations department completely approve the program, forms used, reporting procedures utilized, and methods of handling files, reports, and disclosure of information.
- \_\_\_ Establish and identify (by bulletin board posting and in employee orientation) an internal manager contact for use by employees (confidentiality and non-retaliation stressed) who believe they are in need of specialty personnel services.
- \_\_\_ Employers should include language such as the following in their policies which deal with employee assistance programs or professional counseling services programs, and comments to the same effect should be made in early stages of job performance counseling or corrective action efforts by the supervisor.

### **SAMPLE EAP NON-MITIGATION STATEMENT**

The employee assistance program is not a "safe-haven" or "last-chance" resort or option to allow an employee to escape his or her job performance obligation. Employees should seek assistance before committing a violation of the attendance policy, the fitness-for-duty policy, or any other policy, or before the onset of any job performance problems.

- \_\_\_ Excellent training is also available through most state law enforcement agencies and through state addictive services agencies to develop supervisory awareness and proper, responsible methods for dealing with alcohol/drug problems in the workplace and for dealing with drug and alcohol selling in the workplace.