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DRAFT

-SAMPLE-

[AGENCY NAME]

ACKNOWLEDGEMENT OF NOTICE TO EMPLOYEES
WHOSE POSITION IS DESIGNATED SENSITIVE FOR DRUG TESTING PURPOSES

I acknowledge receiving notice of the establishment of [agency name]'s employee drug testing program. I understand that I may be selected for screening by urinalysis testing for the presence of controlled substances. I understand that a confirmed positive result of that testing or refusal to submit to testing may result in disciplinary action up to and including dismissal from the Federal service.

I have read the notice announcing the establishment of an employee drug testing program.

Printed or Typed Name

Signature of Employee

Date

DRAFT

CONSENT FOR RELEASE OF PATIENT INFORMATION DURING OR AFTER TREATMENT OR REHABILITATION

I, _____, hereby consent to the disclosure of
(Employee/Patient name)
information concerning my progress in terminating illegal drug use. I
authorize the _____ to disclose that information and
(Treatment/Rehabilitation Facility)
information resulting from any follow-up drug test to
_____, director of the Employee Assistance Program
(Name)
at _____ and to _____, my supervisor, for
(Name of Agency) (Name of supervisor)
drug use monitoring under Executive Order 12564, which provides for a drug-
free Federal workplace.

I understand that this consent is subject to revocation at any time,
except to the extent that action has been taken in reliance thereon, and that
it will expire without express revocation upon
_____.
(date, event, condition.)

This consent to disclose the above-described treatment records was
freely given, without reservation, for the purpose set out above.

(Signature of employee/patient)

(Date on which consent is signed)

CLAUSE FOR USE IF EMPLOYEE IS A MINOR OR LEGALLY INCOMPETENT

I, _____, the [parent/legal guardian or personal legal
(Name)
representative] of the above named employee/patient, hereby consent to the
aforementioned release of information on his/her behalf.

(Signature)

(Date)

DRAFT

RELEASE MEMORANDUM

SUBJECT: Release of Patient Information

FROM: [Program making the disclosure.]

TO: [Name or title of the person or organization to which the disclosure is to be made.]

In accordance with the attached "Consent for Release of Patient Information," we have released information to you on [Patient's name].

This information has been disclosed to you from records whose confidentiality is protected by Federal law. See 42 U.S.C. § 290ee-3. Federal regulations, at 42 C.F.R. Part 2, prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by those regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose.

(Note: This memorandum is substantially the same as the one appearing in Appendix D of FPM Supplement 792-2.)

DRAFT

**CONSENT FOR RELEASE OF PATIENT INFORMATION
PERTAINING TO TEST FOR ILLEGAL DRUG USE**

I, _____, hereby consent to the disclosure of
(Employee/Patient name)
information concerning the results of a test taken by me on _____, for
(Test date)
illegal drug use. I authorize the _____ to disclose the results
(Testing organization)
of that test to _____, director of the Employee
(Name)
Assistance Program at _____ and to _____,
(Name of Agency) (Name of supervisor)
my supervisor, for drug use monitoring under Executive Order 12564, which
provides for a drug-free Federal workplace.

I understand that this consent is subject to revocation at any time,
except to the extent that action has been taken in reliance thereon, and that
it will expire without express revocation upon

(date, event, condition.)

This consent to disclose the above-described treatment records was
freely given, without reservation, for the purpose set out above. However, I
understand that a drug test will not be administered to me without this
consent. Failure to take the drug test may result in adverse disciplinary
action.

(Signature of employee/patient)

(Date on which consent is signed)

CLAUSE FOR USE IF EMPLOYEE IS A MINOR OR LEGALLY INCOMPETENT

I, _____, the [parent/legal guardian or personal legal
(Name)
representative] of the above named employee/patient, hereby consent to the
aforementioned release of information on his/her behalf.

(Signature)

(Date)

CURRENT OPERATING CONSORTIA

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<u>GRAPHIC LOCATION</u>	<u>LEAD AGENCY</u>	<u>POINT OF CONTACT</u>	<u>TELE NO.</u>
ORAGE, AK	FAA	JAMES OLIVER	907-271-5875
ANTA, GA	HHS	MARILYN MONTGOMERY	242-2713
TON, MA	OPM	JOAN KENNEDY	223-2273
FALO, NY	HHS	BOB MAZZOCHI	264-5505
CAGO, IL	PHS	FRANCES WENCE	353-1719
CINNATI, OH	PHS	FRANCES WENCE	353-1719
IAS, TX	HHS	MARY PERKINS	729-3126
VER, CO	PHS	DR. R. LORTSCHER	776-0078
SAS CITY, MO	PHS	JOHN MCCLAY	758-3597
G ISLAND, NY	HHS	BOB MAZZOCHI	264-5505
TE OF MICHIGAN	PHS	FRANCES WENCE	353-1719
ARK, NJ	HHS	BOB MAZZOCHI	264-5505
YORK CITY, NY	HHS	BOB MAZZOCHI	264-5505
LADELPHIA, PA	HHS	BEVERLY JANDA	596-6712
I JUAN, PR	HHS	BOB MAZZOCHI	264-5505
TTLE, WA	ARMY CORP OF ENG.	TERRY CONOVER	206-764-3568
GIN ISLANDS	HHS	BOB MAZZOCHI	264-5505
ASHINGTON, DC	PHS	AMY BARKIN (PHS) CAROL FAPE (OPM)	443-4357 653-8438

TREATMENT FACILITY DIRECTORIES

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1. National Directory of Drug Abuse and Alcoholism Treatment and Prevention Programs, DHHS Publication No. (ADM)85-321
Printed 1985

Available from: National Institute on Alcohol and
Alcoholism
National Clearinghouse for Alcohol
Information
P.O. Box 2345
Rockville, Md. 20852
Tele: (301) 468-2600

National Institute on Drug Abuse
National Clearinghouse for Drug
Abuse Information
5600 Fishers Lane, Room 10A-43
Rockville, Md. 20857
Tele: (301) 443-6500

2. Washington Metropolitan Area Directory of Alcohol/Drug Treatment Resources, OPM WPS-01 dated September 1984

Available from: Office of Personnel Management
Employee Health Services Branch (PSOG)
1900 E. Street, N.W. Room 7H39
Washington, D.C. 20415
Tele: (202) 632-5558

3. Coping Catalog (listing resources available in the Washington Metropolitan Area for alcohol, drugs and other addiction problems. Nominal Cost)

Available from: The Washington Area Council on Alcohol and
Drug Abuse
1221 Massachusetts Ave., N.W.
Washington, D.C. 20005
Tele: (202) 783-1300

MODEL EMPLOYEE ASSISTANCE PROGRAM
IN SUPPORT OF A DRUG-FREE WORKPLACE

1. Purpose. To implement fully an effective Employee Assistance Program (EAP) within (agency) which provides short term counseling and referral services to employees with drug abuse. This is in keeping with the President's policy, set forth in Executive Order 12564, to eliminate drug use from the Federal workplace and to offer an opportunity for rehabilitation of employees who use illegal drugs.

2. Background. Public Law 92-255, as amended, requires Federal agencies to develop and maintain appropriate prevention, counseling and rehabilitation programs and services for drug abuse among Federal employees. Regulations implementing this requirement are contained in Title 5, Code of Federal Regulations, Part 792. Guidance is further provided in Subchapters 5 and 6 of the Federal Personnel Manual (FPM) Chapter 792, and FPM Supplement 792-2. Executive Order 12564 of September 15, 1986, established further requirements for agencies and employees in obtaining a Drug-Free Federal Workplace. On October 27, 1986, the President signed into law the Omnibus Drug Enforcement, Education, and Control Act of 1986, P.L. 99-570. That law reiterates Congressional concern about the prevention of illegal drug use and the treatment of Federal employees who use drugs.

3. Objective. The objective of the EAP is to assist employees with drug abuse problems to find treatment, to follow-up with them during recovery and rehabilitation, and to help them remain drug-free.

4. Policy. A. As an employer, the (agency) is concerned with the well-being and productivity of its employees, the maintenance of workforce productivity, and the preservation of a safe and secure workplace. The use of illegal drugs by (agency) employees, on or off the job, is inconsistent with these goals and should not be tolerated.

B. The (agency) stands ready to assist employees in becoming drug-free.

C. Employees who are users of illegal drugs are encouraged to seek counseling and other appropriate assistance voluntarily, including that available through the (agency's) Employee Assistance Program.

DRAFT

-2-

D. The confidential nature of client records will be safeguarded and only disclosed in accordance with the confidentiality provisions of Title 42 CFR, Part 2.

E. Action will be initiated to remove from the (agency) any employee found to use illegal drugs who (1) refuses to obtain counseling or rehabilitation through the Employee Assistance Program; or (2) does not thereafter refrain from using illegal drugs.

F. To the extent feasible, program services will be provided to families of employees who have drug problems and to employees with family members who have drug problems.

5. Program Responsibilities.

A. Agency Employee Assistance Program Administrator. The Employee Assistance Program Administrator has the lead role in ensuring that the (agency's) EAP program meets the requirements of E.O. 12564, and is responsible for the development, implementation and review of the agency EAP. In addition to supervising the headquarters EAP Coordinator and counselor(s), the Administrator will provide advice and assistance in establishing field office EAP's. The EAP Administrator will advise agency components on the submission of annual statistical reports and will prepare consolidated reports on the agency's EAP activity for submission to the Office of Personnel Management on a fiscal year basis.

B. Employee Assistance Program Coordinators.

(1) The Employee Assistance Program Coordinator has responsibility for implementing and operating the EAP within an agency component, such as the Headquarters office or a field installation. More than one coordinator may be deemed necessary, depending on the size of the assigned component. Where the EAP services are contracted out, the coordinator has responsibility for monitoring the contractor performance and verifying services rendered within (agency). The person(s) selected for such assignments will be allotted sufficient official time to:

(a) implement effectively the agency employee assistance policy and program as well as to assist in the development and implementation of the agency drug testing program as it relates to the counseling and rehabilitation of drug-abusing employees;

(b) determine appropriate supervisory training and other activities needed to educate and inform the workforce about drugs and symptoms of drug abuse;

DRAFT

-3-

(c) develop and maintain counseling capability (through personnel, medical, or other counseling resource, including contracting out);

(d) establish liaison with community education, treatment and rehabilitation facilities; and,

(e) evaluate the program and report to management on results and effectiveness.

C. Employee Assistance Counselors. (1) In some instances, the EAP Coordinator may have the necessary skills, time and motivation to function as the Employee Assistance Counselor. The Employee Assistance Counselor serves as the initial point of contact for employees who ask or are referred for counseling, and will be allotted sufficient official time to implement the program effectively. As a minimum, persons designated as Employee Assistance Counselors should be, or provisions should be made for them to be:

(a) Trained in:

- counseling employees in the occupational setting,
- identification of drug abuse, and,
- administering the Employee Assistance Program.

(b) Able to communicate effectively with employees, supervisors and managers concerning drug use and its symptoms and consequences.

(c) Knowledgeable of community resources for treatment and rehabilitation of drug users, including information on fees and payment schedules.

(d) Able to discuss drug treatment and rehabilitation insurance coverage available to employees through the Federal Employee Health Benefits Program.

(e) Able to distinguish the occasional user from the addicted user and to suggest the appropriate treatment based on that information (e.g., after hours attendance at Narcotics Anonymous meetings to significant medical assistance).

(f) Able to provide training and education on drug abuse to employees, supervisors, union representatives, etc.

(2) In offices where counseling staff is not available within the agency, reasonable efforts should be made to provide employees with access to a qualified counselor outside of the agency. This may include authorizing official time for the employee to visit or be visited by a counselor personally, or other steps which may be appropriate.

(3) For employees referred as a result of drug-testing, counselors should document the treatment plan prescribed. Signature of this document by both the counselor and client will ensure mutual understanding of the treatment plan and the consequences of failure to remain drug free.

(4) In order for the counselor to be viewed as the source of assistance and understanding for employees, the person(s) performing these functions should not be involved in the actual drug testing of employees.

D. Employee's Role. All employees are encouraged to enhance their drug awareness through educational opportunities afforded by the EAP or the community at large. Employees who are illegal drug users are encouraged to seek counseling assistance voluntarily. Employees found to be users of illegal drugs are required to accept referral to the EAP and are urged to cooperate with medical treatment and/or rehabilitation programs that are indicated.

E. Medical Personnel.

(1) Employee health units provide emergency diagnoses and first treatment of injury or illness of employees during duty hours. Where indicated, the employee should be further referred to a private physician or community health service. If such cases ultimately are determined to have stemmed from abuse of drugs, medical personnel should discuss the facts of the situation with the supervisor and the employee and refer the employee for counseling. A close working relationship with the EAP Counselor(s) is essential for program success. The Health Unit staff is available for consultation with and assistance to personnel assigned EAP responsibilities.

(2) Where such facilities do not exist, these services are provided whenever possible through existing occupational health facilities and/or community physicians or clinics.

6. Training and Education.

A. Supervisory training. Employee counselors will conduct training sessions for all agency supervisors on the handling of problems of substance abuse. Appropriate topics include:

(1) Drug Awareness and symptoms of drug use.

(2) Recommended methods for dealing with the suspected or identified drug user.

(3) Supervisory responsibilities under E.O. 12564.

(4) Confrontation and referral techniques.

(5) Explanation of the (agency) employee assistance program and its relationship with the (agency) drug testing program.

(6) General principles of rehabilitation including techniques for supervisors to assist employees in returning to the worksite, given specific (agency) needs and requirements.

(7) Personnel management issues (e.g., relationship of this program to performance appraisal and disciplinary programs; leave usage; and, supervisory notes and documentation).

B. Employee education. The Employee Assistance Coordinator will ensure that employee seminars on topics dealing with drug use are provided periodically. Managers and supervisors shall encourage employee attendance at these seminars and provide other appropriate support. On a continuing basis, educational materials and information on drug abuse will be available to individual employees.

7. Publicity of EAP to employees.

A. This policy and program will be made known to all (agency) employees. All new employees will be informed of the services available under this program as they enter on duty.

B. The names and locations of Employee Assistance Counselor(s) should be listed in telephone directories and displayed on employee bulletin boards.

C. Periodic employee memoranda and other appropriate publications should be used to keep employees informed of EAP services.

8. Short-term Counseling and Referral.

A. Referrals to the Employee Assistance Program are for the purposes of identifying the problem, referring the employee to the appropriate treatment resource in the community and following up with the employee during recovery and rehabilitation.

B. Voluntary referrals, or self referrals, are to be encouraged throughout EAP materials.

C. In the case of a management referral as a result of a positive drug screen, the employee assistance staff will interview and/or consult with supervisors and management officials, as requested, and provide them with guidance on how to refer the drug abusing employee to the assistance program. Once the referral is made, and the employee agrees to the appointment with the counselor, the counselor will require the employee to sign a consent for release of information to the supervisor before assistance will be provided. Upon obtaining the signed consent, the counselor will assess the problem(s), review the employee's health insurance coverage and refer the individual to an appropriate treatment resource in the Community. The counselor will monitor the employee's treatment and keep the supervisor advised as to the progress being made. The counselor will periodically follow-up with the employee and his or her supervisor after any treatment which occurs and offer support and assistance as needed.

9. Community Resources. The EAP will develop a working relationship with community assistance resources. Program coordinators and counselors will determine which community agencies or individuals best meet employee and management needs. Contact should be established with specialized resources such as the following:

A. State drug authorities for help in identifying treatment resources for drug abusing employees;

B. Narcotics Anonymous for information on where and when meetings are held;

C. Hospital and clinic treatment facilities in order to establish a working relationship between the counselor and the receiving treatment source; and,

D. Drug abuse councils to keep abreast of the latest development regarding drug abuse.

10. Program Interrelationships.

A. Relationship with Drug Testing Program. As called upon, the EAP staff will work with the drug testing program staff in the development and implementation of the drug testing program. However, EAP staff are not to be involved in the collection of urine samples or the initial reporting of drug test results. EAP efforts are to focus on counseling and rehabilitating drug-abusing employees, as well as on educating the workforce regarding drug abuse and its symptoms.

B. Relationship of the Supervisor. Supervisors have explicit expectations of their employees in terms of job performance and behavior. When supervisors are advised of confirmed employee drug use, they are required to refer the employee to an Employee Assistance Program and to initiate an appropriate personnel action. Supervisors should work with the Employee Assistance Counselor to monitor the employee's progress during treatment and rehabilitation and take appropriate personnel action should the employee fail to remain drug free.

C. Relationship with Labor Organizations. The support and active participation of labor organizations is a key element in the success of an employee assistance program. Therefore, where there are units of exclusive recognition, management should:

(1) Communicate to labor organizations a strong commitment to providing assistance to employees.

(2) Consult or negotiate, as appropriate, concerning the implementation of the EAP.

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

D. Relationship to disciplinary Actions/Adverse Actions. In those situations involving illegal drugs, except as provided in Section 5(b) of Executive Order 12564, disciplinary action is required to be initiated against employees who are found to use illegal drugs. Managers and supervisors should work closely with their Employee Relations Staff, Personnel Office, in deciding which disciplinary measure(s) to initiate.

11. Recordkeeping and Reporting

A. Counseling Records. Records on employees who have been referred for counseling will be maintained in a secure and confidential manner. Information on any drug abuse client will be released only to the immediate supervisor in accordance with the employee's consent to release, and for the reasons identified in section 8C above. Any information obtained by a supervisor from the counselor must be maintained, as with all employee records, in a strictly confidential manner. In addition, to the extent that counseling records include employee treatment records, they shall be maintained in accordance with Title 42 CFR, Part 2. Consequently, access to these records will be strictly limited. All appropriate steps, including necessary physical safeguards, will be taken to ensure against unauthorized disclosure.

DRAFT

-8-

B. Statistical reports. The EAP Administrator will compile sufficient statistical data to provide the basis for evaluating the extent of drug abuse problems and effectiveness of the assistance program. The EAP Administrator will also submit an agency-wide report to the Office of Personnel Management annually. These reports will be purely statistical in nature and will not identify individual employees.

12. Program Evaluation. The EAP Administrator and Coordinators will regularly evaluate their program to determine the effectiveness and efficiency of services. These evaluations will include: services to employees with drug abuse problems, referral procedures and effectiveness, supervisory training, employee orientation, reporting systems, availability and accessibility of EAP, records systems, outreach activities, staffing and qualifications procedures. Written evidence of program evaluations, identified deficiencies and correction plans will be available for review by the EAP Administrator. Documented modifications in the program's assessment and intervention services should be made based upon the findings of such evaluations.



Office of the Director

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

November 4, 1986

Mr. Alfred H. Kingon
Assistant to the President and
Cabinet Secretary
The White House
Washington, D.C. 20500

Dear Mr. Kingon,

I thought you would like to take a look at the attached draft FPM letter which OPM developed pursuant to E.O. 12564. When final, this will provide guidance to agencies on how to establish their individual drug testing program. (HHS is developing the technical guidelines to accompany this guidance.)

Obviously we are keeping these drafts very close hold. We have just begun our consultation with the Department of Justice and expect to complete that process and be ready to go public shortly after November 15.

Please let me know if you have any comments on our draft.

Sincerely,

Constance Horner

SUBJECT: Establishing a Drug-Free Federal Workplace

1. PURPOSE

- a. The use of illegal drugs by a significant proportion of the national workforce has major adverse effects on the welfare of all Americans, and results in billions of dollars of lost productivity each year. The Federal government's civilian workforce is overwhelmingly hard-working and drug-free. However, as the Nation's largest employer, the Federal government and its two million civilian employees must be in the forefront of our national effort to eliminate illegal drugs from the American workplace. In recognition of this, President Reagan, in Executive Order 12564, set forth the policy of the United States Government to eliminate drug use from the Federal workplace.
- b. The use of illegal drugs by Federal employees, whether on or off the job, can not be tolerated. Federal workers have a right to a safe and secure workplace, and all American citizens, who daily depend on the work of the Federal government for their health, safety, and security, have a right to a reliable and productive civil service. Federal agencies must take action for the protection of individual drug users, their coworkers, and the society at large.
- c. Agencies will establish a comprehensive drug control program which is humane, responsible, and effective. In recognition that employees who use drugs are, themselves, primarily responsible for changing their behavior, the program will include drug education and training, employee counseling and assistance, and voluntary drug testing. However, where appropriate, there will be mandatory drug testing and disciplinary action.
- d. This will be a balanced program which emphasizes offering a helping hand to employees who are using illegal drugs. At the same time, it must be clear to all that continued illegal drug use by employees will not be tolerated.
- e. Under the Executive Order, OPM is directed to issue government-wide guidance to agencies on the implementation of the terms of the Order.

2. AGENCY RESPONSIBILITIES

- a. The head of each Executive agency shall develop a plan for achieving the objective of a drug-free workplace with due consideration of the rights of the government, the employee, and the general public. Agencies should make every reasonable effort to ensure workforce understanding of, and employee organization cooperation with, their drug prevention programs. Communications should emphasize the importance of the drug prevention program for agency mission and the community at large. Further, agencies should ensure that their drug prevention programs complement agency programs to deal with alcohol abuse and related employee problems.
- b. Each agency plan shall include:

(1) A statement of policy setting forth the agency's expectations regarding drug use and the action to be anticipated in response to identified drug use;

(2) Employee Assistance Programs (EAP's) with high level direction, emphasizing education, counseling, referral to rehabilitation, and coordination with available community resources;

(3) Supervisory training to assist in identifying and addressing illegal drug use by agency employees (agencies may wish to include material on alcohol abuse in this training);

(4) Provision for self-referral as well as supervisory referrals to counseling or treatment with maximum respect for individual confidentiality consistent with safety and security; and

(5) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis in accordance with E.O. 12564 and the guidance contained below.

c. Agencies shall ensure that drug testing programs in existence as of September 15, 1986 are brought into conformance with E.O. 12564.

d. Agencies should consult with the Attorney General regarding their drug testing programs, as provided by Section 6(b) of the Order.

3. AGENCY DRUG TESTING PROGRAMS

a. Testing in Sensitive Positions. The head of each Executive agency shall establish a program to test for the use of illegal drugs by employees in sensitive positions.

(1) For purposes of this program, the term "employee(s) in a sensitive position" refers to:

i. An employee in a position that an agency head designates Special Sensitive, Critical-Sensitive, or Noncritical-Sensitive under Chapter 731 of the Federal Personnel Manual or an employee in a position that an agency head designates as sensitive in accordance with Executive Order No. 10450, as amended;

ii. An employee who has been granted access to classified information or may be granted access to classified information pursuant to a determination of trustworthiness by an agency head under Section 4 of Executive Order No. 12356;

iii. Individuals serving under Presidential appointments;

iv. Law enforcement officers as defined in 5 U.S.C. 8321(20); and

v. Other positions that the agency head determines involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.

(2) Because of the wide variations in individual agency mission and function, unique characteristics of agency workforces and applicant pools, and agency program needs, no precise government-wide listing of sensitive positions by occupational series

or title, for purposes of drug testing, is possible. Accordingly, these determinations must be primarily an agency responsibility. In meeting this responsibility, agencies should refer to guidance on position sensitivity contained in FPM Chapters 731 and 732.

(3) However, agencies should also recognize that position sensitivity for drug testing purposes may be defined somewhat differently than for other programs. Thus, while the use of illegal drugs by any employee renders that employee unfit for public service, and while new or continued employment of any person who uses illegal drugs is contrary to the efficiency of the service, the dangers to public health and welfare, and to fellow employees, are particularly acute for certain kinds of positions. This includes positions where access to confidential or secret material is involved, positions of high trust and confidence, and positions where effective functioning depends on the total absence of chemically induced mental or physical impairment. Thus, in addition to positions where national security considerations are present, as well as positions where there is a clear impact on public health or safety (e.g., air traffic controllers; operators of motor vehicles; medical, nursing, and related health care personnel) or positions where there is a clear relationship to illegal drug control (e.g., law enforcement officials such as customs agents and drug enforcement agents), other positions should be reviewed with particular care when one or more of the following are present as regular, recurring duties: operation or maintenance of any transportation, motor vehicle, aircraft, or heavy or other large mechanical or electrical equipment; work with explosive, toxic, radioactive, or other dangerous materials; work with fluids or gases under heat or pressure; work by employees uniquely positioned to exploit highly sensitive computer or financial data for financial gain.

(4) Agency heads have the discretion to determine which positions should be tested for illegal drug use. When selecting sensitive positions for drug testing purposes, however, agencies should ensure that the selection process does not result in arbitrary, capricious, or discriminatory selections. Agencies must be able to justify their selection of those positions that are deemed sensitive for drug testing purposes as a neutral application of position selection criteria. When selecting positions for testing from within the category of positions already designated Special Sensitive, Critical Sensitive, and Non-critical Sensitive, agencies should use selection criteria that take into account the degree of sensitivity of the actual duties required to be performed by employees in those positions and should not rely exclusively upon the general sensitivity designation. At the same time, agencies are absolutely prohibited from selecting positions for drug testing on the basis of a desire to test particular individual employees. The position and the sensitivity of the duties performed by the incumbent in that position are the determinative factors that should underly the decision that a position is sensitive for the purposes of drug testing.

b. Voluntary Testing. The head of each Executive agency shall establish a program for voluntary employee drug testing. This program will be open to all employees who are not covered by the mandatory program discussed in subsection (a) of this section. Agencies should allow any employee who volunteers for drug testing to come forward and submit his name for inclusion in the pool of employees to be selected for testing. Thereafter, the testing procedures will be applied to the volunteer in the same manner as they will be applied to the covered employee population.

c. Specific Condition Testing. In addition to the testing outlined in subsections (a) and (b) of this section, the head of each Executive agency is authorized to test an employee for illegal drug use under the following circumstances:

DRAFT

(1) When there is a reasonable suspicion that any employee uses illegal drugs. For the purposes of this program "reasonable suspicion" exists when specific, articulable facts and reasonable inferences drawn from those facts are such that a reasonably prudent person would suspect that the employee uses illegal drugs. "Reasonable suspicion" that an employee uses illegal drugs may be based upon, among other things:

- i. observable phenomena, such as direct observation of drug use and/or the physical symptoms of being under the influences of a drug;
- ii. a pattern of abnormal conduct, impaired job performance, or erratic behavior;
- iii. arrest and/or conviction for a drug related offense;
- iv. the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking; or
- v. information provided either by reliable and credible sources or independently corroborated.

(2) In an examination authorized by the agency regarding an accident or unsafe practice; or

(3) As part of or as a follow-up to counseling or rehabilitation for illegal drug use through an Employee Assistance Program.

d. Applicant Testing. The head of each Executive agency is authorized to test any applicant for illegal drug use. One option agencies have is to test applicants for positions that are designated sensitive for drug testing purposes. Should an agency head choose to test applicants for illegal drug use, he or she may determine whether all applicants will be tested or whether applicants for certain positions or types of positions will be tested. Agencies should include notice of drug testing on vacancy announcements for those positions where drug testing is required. A sample notice provision for vacancy announcements or other information about the position would read as follows: "All applicants for this position will be required to submit to an urinalysis for illegal drug use prior to appointment in the Federal service."

e. Hardship Exemption. Agencies may choose to exempt certain positions from the drug testing program on the basis of hardship due to the remote location of the duty station of the positions, the unavailability of on-site testing personnel, or the lack of an appropriate site for test administration. Agencies should, however, use reasonable means to overcome such hardships and administer the drug testing program as widely as possible.

4. DRUG TESTING PROCEDURES

a. 60 Day General Notice to All Employees.

(1) Agencies which have not yet implemented a drug testing program shall ensure that at least sixty days elapse between a general one-time notice to all employees that a drug testing program is being implemented and the beginning of actual drug testing. Such notice should indicate the purpose of the drug testing program, the availability of counseling and rehabilitation assistance through the agency's Employee Assistance

Program, when testing will commence, the general categories of employees to be tested, and the general parameters of testing. Agencies may decide to include with their notice a description of their drug program or a copy of the internal personnel rules establishing their program.

(2) Agencies with drug testing programs already in place prior to issuance of Executive Order 12564 on September 15, 1986, are not required to stop testing and provide a sixty day notice period.

(3) Any agency may take action as described in part 3c. of this letter without reference to the 60-day notice requirement.

b. Special Notice to Covered Employees. Agencies should ensure a specific notice is given, in writing, to each employee in a covered position. We recommend that agencies obtain a written acknowledgement of receipt of the notice. A sample acknowledgement for agency consideration is provided as attachment 1 to this letter. The notice should contain the following information:

(1) The reasons for the urinalysis test, consistent with agency policy formulated in accordance with section 3a. of this letter.

(2) Notice of the opportunity for an employee to identify himself voluntarily as a user of illegal drugs willing to undertake counseling and, as necessary, rehabilitation, thereby avoiding disciplinary action.

(3) Assurance that the quality of testing procedures is tightly controlled, that the test used to confirm use of illegal drugs is highly reliable, and that test results will be handled with maximum respect for individual confidentiality, consistent with safety and security.

(4) Notice of the opportunity and procedures for submitting supplemental medical documentation that may support a legitimate use for a specific drug.

(5) The circumstances under which testing may occur, consistent with the policy set forward in section 3 of this letter.

(6) The consequences of a confirmed positive result or refusal to be tested, including disciplinary action.

(7) The availability of drug abuse counseling and referral services, including the name and telephone number of the local Employee Assistance Program counselor.

c. Notice to Employees Tested Under Specific Conditions. Employees being tested under conditions outlined in section 3c., will receive notice that includes information contained in section 4b., paragraphs (1), (3), (4), (6), and (7).

d. Agency response to persons refusing to participate in a required drug test.

(1) To maintain the integrity of the testing and enforcement program, agencies must take disciplinary action to deal with employees who refuse to be tested. Such action may include, but is not necessarily limited to, removal of such employees as failing to meet a condition of employment.

(2) Applicants who are not current employees and who refuse to be tested must be refused that employment.

e. Technical Guidelines for Drug Testing.

(1) The Secretary of Health and Human Services, as directed by Executive Order No. 12564, has issued scientific and technical guidelines for drug testing programs (see attachment 2). Agencies will conduct their drug testing programs in accordance with these guidelines

(2) Agency heads may choose to test for illegal drug use on a random basis. If agency heads so choose, they may test by (1) random sampling; (2) random test scheduling; or (3) a combination of those two random testing techniques.

f. Confidentiality of Test Results. Agency drug testing programs under E.O. 12564 shall contain procedures to protect the confidentiality of test results and related medical and rehabilitation records.

(1) Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with performance of a drug abuse prevention program conducted by a Federal agency must be kept confidential and may be disclosed only under limited circumstances and for specific purposes. Agencies may wish to refer to regulations issued by the Department of Health and Human Services (42 C.F.R., Sect 2.1 et seq.) on maintaining the confidentiality of treatment records.

(2) Drug abuse treatment records may be disclosed without the consent of the patient only:

-- to medical personnel to the extent necessary to meet a genuine medical emergency;

-- to qualified personnel for conducting scientific research, management audits, financial audits, or program evaluation, with individual names removed from the data;

-- if authorized by an appropriate court order granted after application showing good cause.

(3) Any other disclosure may be made only with the written consent of the patient, and only under certain circumstances. Such consensual disclosure may be made to the patient's employer for verification of treatment or a general evaluation of treatment progress.

(4) Agency drug testing programs should include confidentiality protections consistent with the above requirements. These protections should extend to drug testing records as well as to treatment and rehabilitation records.

(5) Accordingly, neither drug test results nor drug abuse treatment or rehabilitation records may be otherwise disclosed by agencies without the consent of the employee involved. A sample consent for release of patient information during and after treatment or rehabilitation, a sample release memorandum, and a sample consent for release of drug test information are included in attachments 3, 4, and 5, respectively. Any disclosure without such consent is strictly prohibited.

(6) As part of the drug testing procedure, agencies should obtain consent to disclose confirmed positive test results to the administrator of the agency Employee Assistance Program (EAP) and to the management official empowered to recommend or take action. This consent must be obtained prior the test itself. Consequently, refusal

to consent to release of this information will be considered a refusal to take the test.

(7) As provided by the employee consent, confirmed test results will be forwarded to the agency EAP program administrator and to the management official empowered to recommend or take action. Records of unconfirmed test results will be destroyed.

(8) Once a confirmed positive test result is disclosed to the EAP program administrator and the employee agrees to participate in a counseling program or a drug abuse treatment or rehabilitation program, consent to release information during and after counseling, treatment, or rehabilitation will be obtained. Obtaining that consent will be necessary for participation in the program. An employee's refusal to grant consent will be considered a refusal to permit further monitoring.

5. AGENCY ACTION UPON FINDING THAT AN EMPLOYEE USES ILLEGAL DRUGS

a. Drug Use Determination. The determination that an employee uses illegal drugs may be made on the basis of direct observation, a criminal conviction, confirmed results of the agency's drug testing program, the employee's own admission, or other appropriate administrative determinations.

b. Mandatory EAP Referral. Upon reaching a finding that an employee uses illegal drugs, agencies will refer the employee to an Employee Assistance Program and give the employee an opportunity to undertake rehabilitation. While agencies should provide reasonable assistance to employees who demonstrate a desire to become drug-free, the ultimate responsibility to be drug-free rests with the individual employee.

c. Mandatory Removal from Sensitive Positions. If occupying a sensitive position as identified by the head of the agency, the employee must not be allowed to remain on duty status in that position. The agency head may, in consideration of the employee's counseling or rehabilitation progress, return the employee to duty in a sensitive position if it is determined that this would not pose a danger to the safety or health of members of the workplace or the public, or jeopardize national security interests.

d. Disciplinary Actions. Except for employees who voluntarily identify themselves as users of illegal drugs, obtain appropriate counseling and rehabilitation, and thereafter refrain from illegal drug use, agencies are required to initiate disciplinary action against employees who are found to use illegal drugs. Agencies have discretion in deciding what disciplinary measures to initiate, consistent with the requirements of the Civil Service Reform Act and other appropriate factors. Among the disciplinary measures available to agencies are the following:

(1) Reprimanding the employee in writing.

(2) Placing the employee in an enforced leave status, consistent with the procedural requirements of 5 C.F.R. 752.203 or 752.404 as appropriate.

(3) Suspending the employee for fourteen days or less consistent with the procedural requirements in 5 C.F.R. 752.203.

(4) Suspending the employee for 15 days or more consistent with the procedural requirements in 5 C.F.R. 752.404.

(5) Suspending the employee, consistent with the procedural requirements in 5 C.F.R. 752.404, until such time as he or she successfully completes counseling or rehabilitation or until the agency determines that action other than suspension is more appropriate to the individual situation.

(6) Removing the employee, consistent with the procedural requirements of 5 C.F.R. 752.404, for: confirmed illicit use of an illegal drug; refusal to take a drug test authorized by E.O. 12564; refusal to obtain or successfully complete counseling or rehabilitation as required by the Executive Order; or once having completed counseling or rehabilitation, failing to refrain from illegal drug use.

(7) Separation from the Federal service. This is mandatory upon a second confirmed finding of illegal drug use.

e. Preponderance of Evidence Requirement. Agencies are reminded that any action, including removal, taken against an employee under title 5 United States Code, Chapter 75, must be supported by a preponderance of the evidence and must promote the efficiency of the service. Agencies shall maintain full documentation of decisions regarding the identification of critical positions and the establishment of reasonable suspicion that illicit drug use may be occurring. Care must also be taken in the conduct of tests and the handling of testing samples to ensure that requirements of evidentiary proof may be met.

6. STATISTICAL REPORTING

Agencies shall keep statistical records on: (1) the number of employees tested and the number of employees with confirmed positive tests; (2) the number of applicants tested and the number of applicants with confirmed positive tests. Personally identifying information in these statistical records is strictly prohibited.

7. EMPLOYEE COUNSELING AND ASSISTANCE

a. Program Requirement. Federal agencies are required by Public Laws 91-616 and 92-255, as amended, and by 5 C.F.R. 792 to provide for appropriate prevention, treatment and rehabilitation of Federal civilian employees with drug abuse problems. Agencies are authorized to establish Employee Assistance Programs to meet this mandate.

b. EAP Requirement. Executive Order 12564 identifies Employee Assistance Programs as an essential element to an agency's plan to achieve a drug-free workforce, and explicitly states that agencies shall refer all employees found to be using illegal drugs to their Employee Assistance Program for assessment, counseling, and referral for treatment or rehabilitation as appropriate.

c. EAP Role. Employee Assistance Programs play an important role in identifying and resolving employee substance abuse by: demonstrating the agency's commitment to eliminating illegal drug use; providing employees an opportunity, with appropriate assistance, to discontinue their drug abuse; providing educational materials to managers, supervisors and employees on drug abuse issues; assisting supervisors in confronting employees who have performance and/or conduct problems which may be based in substance abuse; assessing employee-client problems and making referrals to appropriate treatment and rehabilitation facilities; and following up with individuals during the

rehabilitation period to track their progress and encourage successful completion of the program.

d. EAP Elements. In keeping with Executive Order 12564, agencies should ensure that:

(1) EAP's are available to all employees, including those located outside of the Washington metropolitan area and major regional cities. Agencies are encouraged to explore a variety of means for meeting this requirement, including private contractors and cooperative arrangements with other Federal agencies, State and local governments, and non-profit organizations.

(2) At sites where it is not feasible to establish a continuing EAP, agencies should arrange for employee access on a "needs" basis to comparable local resources or, through travel or private telephone calls, to services of established EAP's in other locations.

(3) EAP's, whether in-house or operated through contract, are adequately staffed with fully qualified individuals who can:

i. Provide counseling and assistance to employees who self- refer for treatment or whose drug tests have been confirmed positive, and monitor the employees' progress through treatment and rehabilitation;

ii. Provide needed education and training to all levels of the organization on types and effects of drugs, symptoms of drug use and its impact on performance and conduct, relationship of the employee assistance program with the drug testing program, and related treatment, rehabilitation, and confidentiality issues;

iii. Ensure that the confidentiality of test results and related medical and rehabilitation records are maintained in accordance with the specific requirements contained in Public Laws 92 255 and 93-282, with regulations published in 42 C.F.R., Part 2, and with guidance contained in Section 4 of this Letter.

(4) Adequate treatment resources have been identified in the community in order to facilitate referral of drug abuse clients.

(5) All employees in the agency are informed about the EAP and its services.

(6) The Employee Assistance Program plays an appropriate role in the development and implementation of the agency's drug testing program. EAP's should not be involved in the collection of urine samples or the initial reporting of the results of drug tests, but rather be a critical component in the agency's efforts to counsel and rehabilitate drug-abusing employees, as well as in educating the workforce on drug abuse and its symptoms.

e. Further EAP Assistance.

(1) Attachment 6 provides a list of consortia throughout the United States. Agencies wishing to join an existing consortium should contact the individual listed regarding that possibility.

(2) Attachment 7 provides the names and addresses of organizations which have developed information on treatment facilities in the Washington, D.C. area and throughout the U.S.

(3) The Model Employee Assistance Program provided as attachment 8 addresses those functions we consider essential for an EAP to provide in support of the President's drug-free workforce initiative. It should be of use to agencies in developing new EAP's and in assessing the adequacy of existing programs. OPM's Employee Health Services Branch (Tel. FTS 632-5558) is available for technical assistance on these provisions.

Attachments

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-SAMPLE-

[AGENCY NAME]

ACKNOWLEDGEMENT OF NOTICE TO EMPLOYEES
WHOSE POSITION IS DESIGNATED SENSITIVE FOR DRUG TESTING PURPOSES

I acknowledge receiving notice of the establishment of [agency name]'s employee drug testing program. I understand that I may be selected for screening by urinalysis testing for the presence of controlled substances. I understand that a confirmed positive result of that testing or refusal to submit to testing may result in disciplinary action up to and including dismissal from the Federal service.

I have read the notice announcing the establishment of an employee drug testing program.

Printed or Typed Name

Signature of Employee

Date

DRAFT**CONSENT FOR RELEASE OF PATIENT INFORMATION
DURING OR AFTER TREATMENT OR REHABILITATION**

I, _____, hereby consent to the disclosure of
(Employee/Patient name)
information concerning my progress in terminating illegal drug use. I
authorize the _____ to disclose that information and
(Treatment/Rehabilitation Facility)
information resulting from any follow-up drug test to
_____, director of the Employee Assistance Program
(Name)
at _____ and to _____, my supervisor, for
(Name of Agency) (Name of supervisor)
drug use monitoring under Executive Order 12564, which provides for a drug-
free Federal workplace.

I understand that this consent is subject to revocation at any time,
except to the extent that action has been taken in reliance thereon, and that
it will expire without express revocation upon
_____.
(date, event, condition.)

This consent to disclose the above-described treatment records was
freely given, without reservation, for the purpose set out above.

(Signature of employee/patient)

(Date on which consent is signed)

CLAUSE FOR USE IF EMPLOYEE IS A MINOR OR LEGALLY INCOMPETENT

I, _____, the [parent/legal guardian or personal legal
(Name)
representative] of the above named employee/patient, hereby consent to the
aforementioned release of information on his/her behalf.

(Signature)

(Date)

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RELEASE MEMORANDUM

SUBJECT: Release of Patient Information

FROM: [Program making the disclosure.]

TO: [Name or title of the person or organization to which the disclosure is to be made.]

In accordance with the attached "Consent for Release of Patient Information," we have released information to you on [Patient's name].

This information has been disclosed to you from records whose confidentiality is protected by Federal law. See 42 U.S.C. § 290ee-3. Federal regulations, at 42 C.F.R. Part 2, prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by those regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose.

(Note: This memorandum is substantially the same as the one appearing in Appendix D of FPM Supplement 792-2.)

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**CONSENT FOR RELEASE OF PATIENT INFORMATION
PERTAINING TO TEST FOR ILLEGAL DRUG USE**

I, _____, hereby consent to the disclosure of
(Employee/Patient name)
information concerning the results of a test taken by me on _____, for
(Test date)
illegal drug use. I authorize the _____ to disclose the results
(Testing organization)
of that test to _____, director of the Employee
(Name)
Assistance Program at _____ and to _____,
(Name of Agency) (Name of supervisor)
my supervisor, for drug use monitoring under Executive Order 12564, which
provides for a drug-free Federal workplace.

I understand that this consent is subject to revocation at any time,
except to the extent that action has been taken in reliance thereon, and that
it will expire without express revocation upon

(date, event, condition.)

This consent to disclose the above-described treatment records was
freely given, without reservation, for the purpose set out above. However, I
understand that a drug test will not be administered to me without this
consent. Failure to take the drug test may result in adverse disciplinary
action.

(Signature of employee/patient)

(Date on which consent is signed)

CLAUSE FOR USE IF EMPLOYEE IS A MINOR OR LEGALLY INCOMPETENT

I, _____, the [parent/legal guardian or personal legal
(Name)
representative] of the above named employee/patient, hereby consent to the
aforementioned release of information on his/her behalf.

(Signature)

(Date)

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CURRENT OPERATING CONSORTIA

<u>APPLIC LOCATION</u>	<u>LEAD AGENCY</u>	<u>POINT OF CONTACT</u>	<u>TELE NO.</u>
PRAGE, AK	FAA	JAMES OLIVER	907-271-5875
TA, GA	HHS	MARILYN MONTGOMERY	242-2713
N, MA	OPM	JOAN KENNEDY	223-2273
LO, NY	HHS	BOB MAZZOCHI	264-5505
CO, IL	PHS	FRANCES WENCE	353-1719
NNATI, OH	PHS	FRANCES WENCE	353-1719
S, TX	HHS	MARY PERKINS	729-3126
R, CO	PHS	DR. R. LORTSCHER	776-0078
S CITY, MO	HHS	JOHN MCCLAY	758-3597
ISLAND, NY	HHS	BOB MAZZOCHI	264-5505
E OF MICHIGAN	PHS	FRANCES WENCE	353-1719
UK, NJ	HHS	BOB MAZZOCHI	264-5505
ORK CITY, NY	HHS	BOB MAZZOCHI	264-5505
ADELPHIA, PA	HHS	BEVERLY JANDA	596-6712
JUAN, PR	HHS	BOB MAZZOCHI	264-5505
FILE, WA	ARMY CORP OF ENG.	TERRY CONOVER	206-764-3568
IN ISLANDS	HHS	BOB MAZZOCHI	264-5505
INGTON, DC	PHS	AMY BARKIN (PHS) CAROL PAPE (OPM)	443-4357 653-8438

TREATMENT FACILITY DIRECTORIES

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National Directory of Drug Abuse and Alcoholism Treatment and
Prevention Programs, DHHS Publication No. (ADM)85-321
Printed 1985

available from: National Institute on Alcohol and
Alcoholism
National Clearinghouse for Alcohol
Information
P.O. Box 2345
Rockville, Md. 20852
Tele: (301) 468-2600

National Institute on Drug Abuse
National Clearinghouse for Drug
Abuse Information
5600 Fishers Lane, Room 10A-43
Rockville, Md. 20857
Tele: (301) 443-6500

Washington Metropolitan Area Directory of Alcohol/Drug
Treatment Resources, OPM WPS-01 dated September 1984

Available from: Office of Personnel Management
Employee Health Services Branch (PSOG)
1900 E. Street, N.W. Room 7H39
Washington, D.C. 20415
Tele: (202) 632-5558

Coping Catalog (listing resources available in the Washington
Metropolitan Area for alcohol, drugs and other addiction
problems. Nominal Cost)

Available from: The Washington Area Council on Alcohol and
Drug Abuse
1221 Massachusetts Ave., N.W.
Washington, D.C. 20005
Tele: (202) 783-1300

OCT 30 1986

Attachment ⁸ 9 to FPM Letter 792-

MODEL EMPLOYEE ASSISTANCE PROGRAM IN SUPPORT OF A DRUG-FREE WORKPLACE

1. Purpose. To implement fully an effective Employee Assistance Program (EAP) within (agency) which provides short term counseling and referral services to employees with drug problems. This is in keeping with the President's policy, set forth in Executive Order 12564, to eliminate drug use from the Federal workplace and to offer an opportunity for rehabilitation to users of illegal drugs.

2. Background. Public Law 92-255, as amended, requires Federal agencies to develop and maintain appropriate prevention, treatment and rehabilitation programs and services for drug abuse among Federal employees. Regulations implementing this requirement are contained in Title 5, Code of Federal Regulations (CFR) Part 792. Guidance is further provided in Subchapters 5 and 6 of Federal Personnel Manual (FPM) Chapter 792, and FPM Supplement 792-2. Executive Order 12564 of September 15, 1986, established further requirements for agencies and employees in order to obtain a Drug-Free Federal Workplace. On October 27, 1986, the President signed into law the Omnibus Drug Enforcement, Education, and Control Act of 1986, P.L. 99-570. That law reiterates Congressional concern about the prevention of illegal drug use and the treatment of Federal employees who use drugs.

3. Objective. The objective of the EAP is to assist employees with drug problems to find treatment, to follow-up with them during recovery and rehabilitation, and to help them remain drug-free.

4. Policy.

A. As an employer, the (agency) is concerned with the well-being of its employees, the maintenance of workforce productivity, and the preservation of a safe and secure workplace. The use of illegal drugs by (agency) employees, whether on or off the job, is inconsistent with these goals and will not be tolerated.

B. The (agency) stands ready to assist employees in becoming drug free.

C. Employees who are users of illegal drugs are encouraged to seek counseling and other appropriate assistance voluntarily, including that available through the (agency's) Employee Assistance Program.

DRAFT

-2-

D. The confidential nature of client records will be safeguarded and only disclosed in accordance with the confidentiality provisions of Title 42 CFR, Part 2.

E. Action will be initiated to remove from the (agency) any employee found to use illegal drugs who (1) refuses to obtain counseling or rehabilitation through the Employee Assistance Program; or (2) does not thereafter refrain from using illegal drugs.

F. To the extent feasible, program services will be provided to families of employees who have drug problems and to employees with family members who have drug problems.

5. Program Responsibilities.

A. Agency Employee Assistance Program Administrator. The Employee Assistance Program Administrator has the lead role in ensuring that the (agency's) EAP program meets the requirements of E.O. 12564, and is responsible for the development, implementation and review of the agency EAP. In addition to supervising the headquarters EAP Coordinator and counselor(s), the Administrator will provide advice and assistance in establishing field office EAP's. The EAP Administrator will advise agency components on the submission of annual statistical reports and will prepare consolidated reports on the agency's EAP activity for submission to the Office of Personnel Management on a fiscal year basis.

B. Employee Assistance Program Coordinators.

(1) The Employee Assistance Program Coordinator has responsibility for implementing and operating the EAP within an agency component, such as the Headquarters office or a field installation. More than one coordinator may be deemed necessary, depending on the size of the assigned component. Where the EAP services are contracted out, the coordinator has responsibility for monitoring the contractor performance and verifying services rendered within (agency). The person(s) selected for such assignments will be allotted sufficient official time to:

(a) implement effectively the agency employee assistance policy and program as well as to assist in the development and implementation of the agency drug testing program as it relates to the counseling and rehabilitation of drug-abusing employees;

(b) determine appropriate supervisory training and other activities needed to educate and inform the workforce about drugs and symptoms of drug abuse;

DRAFT

-3-

(c) develop and maintain counseling capability (through personnel, medical, or other counseling resource, including contracting out);

(d) establish liaison with community education, treatment and rehabilitation facilities; and,

(e) evaluate the program and report to management on results and effectiveness.

C. Employee Assistance Counselors. (1) In some instances, the EAP Coordinator may have the necessary skills, time and motivation to function as the Employee Assistance Counselor. The Employee Assistance Counselor serves as the initial point of contact for employees who ask or are referred for counseling, and will be allotted sufficient official time to implement the program effectively. As a minimum, persons designated as Employee Assistance Counselors should be, or provisions should be made for them to be:

(a) Trained in:

- counseling employees in the occupational setting,
- identification of drug abuse, and,
- administering the Employee Assistance Program.

(b) Able to communicate effectively with employees, supervisors and managers concerning drug use and its symptoms and consequences.

(c) Knowledgeable of community resources for treatment and rehabilitation of drug users, including information on fees and payment schedules.

(d) Able to discuss drug treatment and rehabilitation insurance coverage available to employees through the Federal Employee Health Benefits Program.

(e) Able to distinguish the occasional user from the addicted user and to suggest the appropriate treatment based on that information (e.g., after hours attendance at Narcotics Anonymous meetings to significant medical assistance).

(f) Able to provide training and education on drug abuse to employees, supervisors, union representatives, etc.

(2) In offices where counseling staff is not available within the agency, reasonable efforts should be made to provide employees with access to a qualified counselor outside of the agency. This may include authorizing official time for the employee to visit or be visited by a counselor personally, or other steps which may be appropriate.

(3) For employees referred as a result of drug-testing, counselors should document the treatment plan prescribed. Signature of this document by both the counselor and client will ensure mutual understanding of the treatment plan and the consequences of failure to remain drug free.

(4) In order for the counselor to be viewed as the source of assistance and understanding for employees, the person(s) performing these functions should not be involved in the actual drug testing of employees.

D. Employee's Role. All employees are encouraged to enhance their drug awareness through educational opportunities afforded by the EAP or the community at large. Employees who are illegal drug users are encouraged to seek counseling assistance voluntarily. Employees found to be users of illegal drugs are required to accept referral to the EAP and are urged to cooperate with medical treatment and/or rehabilitation programs that are indicated.

E. Medical Personnel.

(1) Employee health units provide emergency diagnoses and first treatment of injury or illness of employees during duty hours. Where indicated, the employee should be further referred to a private physician or community health service. If such cases ultimately are determined to have stemmed from abuse of drugs, medical personnel should discuss the facts of the situation with the supervisor and the employee and refer the employee for counseling. A close working relationship with the EAP Counselor(s) is essential for program success. The Health Unit staff is available for consultation with and assistance to personnel assigned EAP responsibilities.

(2) Where such facilities do not exist, these services are provided whenever possible through existing occupational health facilities and/or community physicians or clinics.

6. Training and Education.

A. Supervisory training. Employee counselors will conduct training sessions for all agency supervisors on the handling of problems of substance abuse. Appropriate topics include:

DRAFT

-5-

(1) Drug Awareness and symptoms of drug use.

(2) Recommended methods for dealing with the suspected or identified drug user.

(3) Supervisory responsibilities under E.O. 12564.

(4) Confrontation and referral techniques.

(5) Explanation of the (agency) employee assistance program and its relationship with the (agency) drug testing program.

(6) General principles of rehabilitation including techniques for supervisors to assist employees in returning to the worksite, given specific (agency) needs and requirements.

(7) Personnel management issues (e.g., relationship of this program to performance appraisal and disciplinary programs; leave usage; and, supervisory notes and documentation).

B. Employee education. The Employee Assistance Coordinator will ensure that employee seminars on topics dealing with drug use are provided periodically. Managers and supervisors shall encourage employee attendance at these seminars and provide other appropriate support. On a continuing basis, educational materials and information on drug abuse will be available to individual employees.

7. Publicity of EAP to employees.

A. This policy and program will be made known to all (agency) employees. All new employees will be informed of the services available under this program as they enter on duty.

B. The names and locations of Employee Assistance Counselor(s) should be listed in telephone directories and displayed on employee bulletin boards.

C. Periodic employee memoranda and other appropriate publications should be used to keep employees informed of EAP services.

8. Short-term Counseling and Referral.

A. Referrals to the Employee Assistance Program are for the purposes of identifying the problem, referring the employee to the appropriate treatment resource in the community and following up with the employee during recovery and rehabilitation.

B. Voluntary referrals, or self referrals, are to be encouraged throughout EAP materials.

DRAFT

-6-

C. In the case of a management referral as a result of a positive drug screen, the employee assistance staff will interview and/or consult with supervisors and management officials, as requested, and provide them with guidance on how to refer the drug abusing employee to the assistance program. Once a referral is made, and the employee agrees to the appointment with the counselor, the counselor will require the employee to give a consent for release of information to the supervisor before assistance will be provided. Upon obtaining the signed consent, the counselor will assess the problem(s), review the employee's health insurance coverage and refer the individual to appropriate treatment resource in the Community. The counselor will monitor the employee's treatment and keep the supervisor advised as to the progress being made. The counselor will periodically follow-up with the employee and his or her supervisor after any treatment which occurs and offer support and assistance as needed.

Community Resources. The EAP will develop a working relationship with community assistance resources. Program coordinators and counselors will determine which community agencies or individuals best meet employee and management needs. Contact should be established with specialized resources as the following:

- A. State drug authorities for help in identifying treatment resources for drug abusing employees;
- B. Narcotics Anonymous for information on where and when meetings are held;
- C. Hospital and clinic treatment facilities in order to establish a working relationship between the counselor and the providing treatment source; and,
- D. Drug abuse councils to keep abreast of the latest development regarding drug abuse.

Program Interrelationships.

A. Relationship with Drug Testing Program. As called upon, EAP staff will work with the drug testing program staff in development and implementation of the drug testing program. However, EAP staff are not to be involved in the collection of urine samples or the initial reporting of drug test results. EAP efforts are to focus on counseling and rehabilitating drug-abusing employees, as well as on educating the workforce regarding drug abuse and its symptoms.

DRAFT

-7-

B. Relationship of the Supervisor. Supervisors have explicit expectations of their employees in terms of job performance and behavior. When supervisors are advised of confirmed employee drug use, they are required to refer the employee to an Employee Assistance Program and to initiate an appropriate personnel action. Supervisors should work with the Employee Assistance Counselor to monitor the employee's progress during treatment and rehabilitation and take appropriate personnel action should the employee fail to remain drug free.

C. Relationship with Labor Organizations. The support and active participation of labor organizations is a key element in the success of an employee assistance program. Therefore, where there are units of exclusive recognition, management should:

- (1) Communicate to labor organizations a strong commitment to providing assistance to employees.
- (2) Consult or negotiate, as appropriate, concerning the implementation of the EAP.
- (3) Include union representatives in appropriate training and orientation programs to ensure a mutual understanding of program policy, referral procedures, and other program elements.

D. Relationship to disciplinary Actions/Adverse Actions. In those situations involving illegal drugs, except as provided in Section 5(b) of Executive Order 12564, disciplinary action is required to be initiated against employees who are found to use illegal drugs. Managers and supervisors should work closely with their Employee Relations Staff, Personnel Office, in deciding which disciplinary measure(s) to initiate.

11. Recordkeeping and Reporting

A. Counseling Records. Records on employees who have been referred for counseling will be maintained in a secure and confidential manner. Information on any drug abuse client will be released only to the immediate supervisor in accordance with the employee's consent to release, and for the reasons identified in section 8C above. Any information obtained by a supervisor from the counselor must be maintained, as with all employee records, in a strictly confidential manner. In addition, to the extent that counseling records include employee treatment records, they shall be maintained in accordance with Title 42 CFR, Part 2. Consequently, access to these records will be strictly limited. All appropriate steps, including necessary physical safeguards, will be taken to ensure against unauthorized disclosure.

DRAFT

-8-

B. Statistical reports. The EAP Administrator will compile sufficient statistical data to provide the basis for evaluating the extent of drug abuse problems and effectiveness of the assistance program. The EAP Administrator will also submit an agency-wide report to the Office of Personnel Management annually. These reports will be purely statistical in nature and will not identify individual employees.

12. Program Evaluation. The EAP Administrator and Coordinators will regularly evaluate their program to determine the effectiveness and efficiency of services. These evaluations will include: services to employees with drug abuse problems, referral procedures and effectiveness, supervisory training, employee orientation, reporting systems, availability and accessibility of EAP, records systems, outreach activities, staffing and qualifications procedures. Written evidence of program evaluations, identified deficiencies and correction plans will be available for review by the EAP Administrator. Documented modifications in the program's assessment and intervention services should be made based upon the findings of such evaluations.