



DEPARTMENT OF THE NAVY
UNITED STATES NAVAL ACADEMY
ANNAPOLIS, MARYLAND 21402-5000

USNAINST 12790.6B
24/TEDD
31 August 1990

USNA INSTRUCTION 12790.6B

From: Superintendent

Subj: CIVILIAN EMPLOYEE ASSISTANCE PROGRAM

Ref: (a) CPI 792 (NOTAL)
(b) FPM Chapter 792 (NOTAL)
(c) FPM Supplement 792-2 (NOTAL)
(d) 42 CFR, Part 2 (NOTAL)
(e) USNAINST 12339.2
(f) 29 CFR 1613.704 (NOTAL)
(g) CPI 752 (NOTAL)
(h) CPI 432 (NOTAL)

Encl: (1) Job Performance Evaluation (NDW-USNA-DMR-5353/04)
(2) Sample letter directing a competency for duty examination
(3) Sample letter offering a competency for duty examination
(4) Transportation procedures for competency for duty examinations

1. Purpose. To establish policy and procedures on the conduct of the Civilian Employee Assistance Program (CEAP) per references (a), (b), and (c).

2. Cancellation. USNA Instruction 12790.6A.

3. Coverage. This instruction applies to all employees in activities serviced by the U.S. Naval Academy (USNA), Civilian Personnel Department (CPD).

4. Policy. USNA policy is to assist employees in overcoming performance or conduct deficiencies caused by misuse of drugs or alcohol or by other personal problems.

a. The CEAP program provides problem identification and preventive counseling and referral to local community agencies for treatment, rehabilitation, or other assistance.

b. CEAP does not include treatment or rehabilitation. Employees are responsible for all costs of treatment and rehabilitation.

c. Alcohol and drug dependency will be recognized and managed as treatable health problems where job performance and/or conduct are impaired as a direct consequence.

d. Employees will refrain from the abuse of all drugs and will not report for duty under the influence of alcohol or drugs. Employees are responsible for seeking assistance, through CEAP, to overcome alcohol, drug, or other personal problems which are adversely impacting on their performance and will cooperate with supervisors and CEAP counselors in matters relating to the program.

e. The confidential nature of client records will be safeguarded and information therein will not be disclosed except as provided by the confidentiality provisions of reference (d).

f. To the extent feasible, CEAP assistance will be provided to family members of an employee with personal problems and to an employee with a family member who has a personal problem.

5. Definitions. These definitions are for the administration of the CEAP. They do not modify or influence definitions applicable to laws and regulations related to disability benefits or to criminal or civil responsibility for an individual's acts or omissions.

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

b. Alcohol and Drug Dependence. The reliance on alcohol (alcoholism) or drugs following use on a periodic or continuing basis. Dependence may be psychological, physical, or both. Dependency must be determined by a licensed physician, medical officer, or clinical psychologist.

c. Civilian Employee Assistance Program (CEAP). A program offering assistance to employees who have

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problems involving alcoholism, drug abuse, or other personal problems which result in or may contribute to deficiencies in job performance or conduct.

D) R) d. CEAP Counselor. An individual designated to conduct the initial interview with an employee, explain the provisions of the CEAP, determine the nature of the personal problem, and refer the employee to a source of assistance located within the local community.

R) e. Drug Abuse. Use of a drug to an extent it has an adverse effect on performance, conduct, discipline, or mission effectiveness, and/or the user's health, behavior, family, or community. The wrongful or illegal possession or use of drugs in any amount also constitutes drug abuse.

A) f. Disabled Person. One who has a physical or mental impairment which substantially limits one or more of the person's major life activities (including working), has a record of such impairment, or is regarded as having such an impairment.

A) g. Qualified Disabled Person. With respect to employment, a disabled person who, with or without reasonable accommodation, can perform the essential functions of the position in question without endangering the health and safety of the individual or others and who, depending upon the type of appointing authority being used, meets the experience and/or education requirements (which may include a written test) of the position in question or meets the criteria for appointment under one of the special appointing authorities for disabled employees.

A) h. Reasonable Accommodation. With respect to any employee who establishes his/her deficient performance or conduct is caused by a physical or mental impairment, reasonable accommodation is the referral to CEAP for diagnostic counseling and referral for treatment or rehabilitation or other assistance, the granting of leave for treatment, rehabilitation or assistance, and a reasonable opportunity to demonstrate minimally acceptable performance or conduct.

A) i. Rehabilitation. The process of restoring to effective functioning individuals who have been impaired by alcoholism, drug addiction, or other dependencies. Rehabilitation occurs after treatment has been completed and may be in a clinical or nonclinical setting. Ordinarily, rehabilitation involves individual or group counseling or participation in self-help organizations such as Alcoholics Anonymous.

j. Trafficking. The wrongful distribution (including sale or transfer) of a controlled substance, and/or the wrongful possession or introduction into a military unit, base, station, ship, or aircraft of a controlled substance with intent to distribute. Trafficking in drugs is misconduct which does not confer an entitlement to reasonable accommodation under CEAP.

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

R) 6. Responsibilities

R) a. Civilian Personnel Department (CPD). The CPD will provide advice and assistance to the Superintendent in the implementation of the local CEAP including:

(1) Administration of the CEAP per Department of the Navy (DON) policy.

(2) The establishment of contractual or cooperative agreements to provide counseling, referral, and/or educational services, if necessary.

(3) The dissemination of policy and guidance issued by higher authority.

R) b. Supervisors. Supervisors will:

(1) Use enclosure (1) to identify and document instances of deficient work performance or conduct, with special attention directed to patterns of performance deterioration.

(2) Discuss the performance or conduct deficiencies with the employee and refer the employee to the activity CEAP Administrator if, in their opinion, the noted deficiencies may be caused by a personal problem, such as but not limited to, alcohol or drug abuse. Referrals will be made in writing. The supervisor must discuss the choice facing the employee to raise performance or conduct to an acceptable level or face corrective action to deal with continued performance or conduct deficiencies.

(3) Give the employee a reasonable opportunity to improve performance or conduct following the discussion in which referral to CEAP is made. (A)

(4) Initiate corrective action based on performance or conduct problems if, after a reasonable period of time, performance or conduct has not improved to an acceptable level. (R)

(5) Refrain from diagnosing employee problems, but should be alert to indications of personal problems, including alcohol or drug abuse. (R)

(6) Refrain from ordering an employee to undergo a medical examination for the purpose of determining his/her fitness for duty. See reference (e) for proper procedures. (A)

(7) Use enclosures (2) or (3) to refer employees to the Naval Medical Clinic, Annapolis, for competency for duty examinations in the event employees are apparently under the influence of alcohol, drugs, or are not mentally or emotionally competent to perform the duties of their positions during duty hours. Refer to reference (e) for a further discussion of competency for duty examinations. Use enclosure (2) when the employees's position has medical/physical requirements; use enclosure (3) when the employee's position does not have medical/physical requirements. Enclosure (4) provides guidance concerning transporting employees to the clinic or home. (A)

(8) Seek the assistance of the CEAP Administrator, Training, Education, and Development Division (TEDD), CPD, in these matters. The CEAP Administrator may be reached on extension 4491. (R)

7. Program Administration (R)

a. Services Provided under CEAP (R)

(1) General. The services provided to civilian employees include:

(a) Short-term counseling related to problem identification. (R)

(b) Referral for treatment and rehabilitation to an appropriate community agency or service. (Treatment and/or rehabilitation at government expense is prohibited.)

(c) Follow-up counseling to aid an employee in achieving an effective readjustment to his/her job during and after treatment or rehabilitation.

(2) Illegal Drug Use Problems. To complement the effort of the DON to eliminate the adverse effects of illegal drug use in the work place and ensure compliance with Executive Order 12564, a voluntary referral procedure is established to encourage illegal drug users to seek counseling and rehabilitation without risk of disciplinary action. This is referred to as "safe harbor" and the employee will be exempt from disciplinary action for the admitted acts of illegal drug use, including possession incident to such use, provided the employee: (A)

(a) Voluntarily makes such disclosure to a superior official before being identified through other means. (A)

(b) Obtains counseling and rehabilitation through CEAP. (A)

(c) Agrees to be tested by the activity during counseling and rehabilitation and during the post-treatment and evaluation phase. (A)

(d) Consents, in writing, to the release of all records related to counseling and rehabilitation, including urinalysis test results, to appropriate management and CEAP officials. (A)

(e) Thereafter refrains from using illegal drugs. (A)

b. Relationship to Discipline

(1) Alcoholism and drug dependency are treatable health problems where job performance or conduct is impaired as a direct consequence. They will be treated as disabling conditions requiring reasonable accommodation before the use of any discipline for performance or conduct deficiencies when the employee involved voluntarily refers himself/herself as a user of illegal drugs under paragraph 7a(2) and meets all the conditions therein, or when the following are met:

(a) The employee involved is a qualified disabled individual under the Rehabilitation Act of 1973.

(b) The employee can demonstrate the disabling condition of alcoholism or drug dependency directly contributed to the performance or conduct deficiency and management knew or should have known the disabling condition existed.

(c) Reasonable accommodation would not impose an undue hardship on USNA such as continuing an unreliable employee in a critical function or in duties which could affect the health and welfare of others.

(2) The CEAP supplements, but does not replace, existing procedures for dealing with employees who have drug or alcohol abuse problems. Performance or conduct problems relating to alcohol or illegal drug use conflict with the DON and USNA mission accomplishment. Further, as provided in reference (f), reasonable accommodation is not required when it would impose an undue hardship on the activity. An employee who is referred to the CEAP, but who declines to seek assistance or refuses to cooperate with a counselor or a facility designated to provide treatment and/or rehabilitation, has prevented the activity from continuing to provide reasonable accommodation. In these cases the employee is subject to disciplinary action if deficient performance and/or conduct continues. Where an employee cannot or will not be rehabilitated, or is not entitled to reasonable accommodation for a disabling condition, corrective action is proper under regulations pertaining to discipline and adverse actions (reference (g)) or performance (reference (h)).

(3) A firm choice between seeking assistance through CEAP or being subject to corrective action must be given to any employee who demonstrates continued performance or conduct problems. Subsequent performance or conduct problems will be dealt with through corrective measures under reference (g) or (h).

(4) Trafficking in drugs is misconduct which does not entitle an employee to reasonable accommodation. Accordingly, an employee who traffics in drugs will be subject to penalties recommended in reference (g) and may also be subject to criminal prosecution.

c. Voluntary Employee Referral. An important aspect of CEAP is its availability to employees on a voluntary basis. Employees are encouraged to seek assistance for alcohol, drug, or other problems before these problems result in a negative impact on job performance or conduct.

d. CEAP Administration and Functions

(1) USNA CEAP Administrator. The USNA CEAP Administrator has responsibility for implementing and operating the CEAP. The CEAP Administrator will not be designated to serve as a Drug Program Coordinator or in any capacity related to the collection or transportation of samples collected under a drug testing program for civilian employees. In addition, the administrator will:

(a) Provide counseling services to all employees referred to CEAP by their supervisors or through self-referral and otherwise offer employees the opportunity for counseling and rehabilitation.

(b) In conjunction with the Training, Education, and Development Division, CPD, provide appropriate supervisory training and other activities needed to educate and inform activity personnel about CEAP and the use of illegal drugs in the work place.

(c) Monitor the progress of referred employees during and after the rehabilitation period.

(d) Develop and maintain an adequate counseling capability through personnel, medical, or other counseling sources, including accessible counseling and assistance centers and contraction out.

(e) Maintain a list of rehabilitation or treatment organizations which provide counseling and rehabilitation programs. The list will include relevant information on each organization.

(f) Periodically visit rehabilitation or treatment organizations to meet administrative and staff members; tour the sites; ascertain the experience, certification, and education level of the staff; and determine policies concerning progress reports of clients and post treatment follow-up.

(g) Evaluate the CEAP, report to the Superintendent at least annually on findings and effectiveness, and recommend local CEAP changes.

(h) Effectively publicize the CEAP to make sure all employees are informed on topics dealing with drug and alcohol abuse. New employees will be informed of the services available through CEAP during employee orientation. (A)

(i) The CEAP or CEAP counselor will serve as the initial point-of-contact for employees who ask or are referred for counseling. (A)

e. Relationship With Labor Organizations. DON and USNA recognize the support and active participation of labor organizations as a key element in the success of the CEAP, and a coordinated effort between labor and management is vital to the success of the CEAP. Provisions of bargaining agreements apply where appropriate. (D)
(A)

f. Program Records. The CEAP Administrator will maintain necessary records to carry out the program. All medical and/or rehabilitation records concerning the employees's problem, including CEAP records of the identity, diagnosis, prognosis, or treatment are confidential and may be disclosed only as authorized by reference (d) including the provision of written consent by the employee. With written consent, the patient may authorize the disclosure of those records to the patient's supervisor or other designated management officials for verification of treatment or for a general evaluation of treatment progress. (D)
(R)


B. A. SPOFFORD
Deputy for Operations

Distribution:
AA
S
CPD (50)

JOB PERFORMANCE EVALUATION

This form may be used as a guide for documentation in determining the extent of job deterioration of you employee to help him/her recognize that something is affecting his/her job performance. The employee should be informed that you are willing to aid him/her with his/her problems through the Civilian Employee Assistance Program.

Name _____ Job _____

Absent (what days) _____ Total days absent _____

Sick (type of illness) _____ Personal (reason given) _____

Day of week (Is a specific pattern developing?) _____

Monday _____ After payday _____

Late for work pattern _____

Morning/long lunch (be specific) _____

Day of the week _____

On-the job absenteeism _____

Unauthorized absences _____ Calling by phone _____

Pattern of leaving work area _____

Describe: _____

Accidents on the job _____

Accidents off the job (but affecting work) _____

Coming to/returning to work in an obviously abnormal condition _____

Comments: _____

Supervisor

Telephone

Reply to:
Administrator
Civilian Employee Assistance Program
Civilian Personnel Department
U.S. Naval Academy

CONFIDENTIAL MEDICAL INFORMATION. Contents shall be used only to accomplish the proper and legitimate purpose for which required and only in the best interests of the individual; it shall not be divulged to unauthorized persons.

SAMPLE LETTER DIRECTING A COMPETENCY FOR DUTY EXAMINATION

From: (Supervisor)
To:

Subj: COMPETENCY FOR DUTY EXAMINATION

Encl: (1) JD/PD# _____, Title: _____

1. You are directed to report for a competency for duty examination to determine whether you are presently able to perform the duties of your position without harm to yourself or others. The examination will be conducted immediately at the Occupational Health/Preventive Medicine Department, Naval Medical Clinic (NAVMEDCLINIC), Annapolis. During the evening and night shifts, the exam will be performed at the USNA Branch Clinic.

2. Your behavior indicates you are under the influence of alcohol or other drugs or are mentally or emotionally not competent to perform your assigned duties. Specifically, the following conditions have been observed:

- a. _____
- b. _____
- c. _____
- d. _____

3. The results of your examination will be considered in determining whether you should remain in a duty status for the remainder of your shift. If the examination indicates that you should not remain in a duty status for the remainder of your shift, you will be allowed to request annual leave or leave without pay if you so desire.

4. By copy of this letter, the NAVMEDCLINIC is requested to perform the competency for duty examination to evaluate your ability to perform the duties of your position, as described in enclosure (1).

5. This action is necessary to ensure your safety and the safety of others in the work environment and to maintain the efficiency of this command. Failure to comply with this order may result in disciplinary action.

Signature

Copy to:
NAVMEDCLINIC, Annapolis

Received by: _____ Date: _____

Enclosure (2)

USNAINST 12790.6B
31 August 1990

SAMPLE LETTER OFFERING A COMPETENCY FOR DUTY EXAMINATION

From: (Supervisor)
To:

Subj: OFFER OF COMPETENCY FOR DUTY EXAMINATION

Encl: (1) JD/PD# _____, Title: _____

1. You are offered the opportunity to report for a competency for duty examination to determine whether you are presently able to perform the duties of your position without harm to yourself or others. The examination will be conducted immediately at the Occupational Health/Preventive Medicine Department, Naval Medical Clinic (NAVMEDCLINIC), Annapolis. During the evening and night shifts, the exam will be performed at the USNA Branch Clinic.

2. Your behavior indicated you are under the influence of alcohol or other drugs or are mentally or emotionally not competent to perform your assigned duties. Specifically, the following conditions have been observed:

- a. _____
- b. _____
- c. _____
- d. _____

3. If it is recommended that you not complete the remainder of your shift, you may request annual leave or leave without pay if you so desire. This examination is being offered because you have indicated you are ready, willing, and able to work while your observed behavior indicated you are not.

4. By copy of this letter, the NAVMEDCLINIC is requested to perform the competency for duty examination to evaluate your ability to perform duties of your position, as described in enclosure (1).

5. This action is necessary to ensure your safety and the safety of others in the work environment and to maintain the efficiency of this command.

Signature

Copy to:
NAVMEDCLINIC

Received by: _____ Date: _____

Enclosure (3)

TRANSPORTATION PROCEDURES FOR COMPETENCY FOR DUTY EXAMINATION

1. Follow these procedures in arranging transportation of employees who, through either medical examination or supervisory observation, are determined to be under the influence of alcohol or other drugs. By following these steps, the rights of the employee will be safeguarded, while ensuring minimum command liability. When an employee is ordered to undergo a competency for duty exam or accepts an offer of a competency for duty exam, the supervisor is responsible for arranging transportation of the employee to the Occupational Health/Preventive Medicine Department, Naval Medical Clinic (NAVMEDCLINIC) or USNA Branch Clinic, as appropriate. Under no circumstances are employees to be allowed to drive themselves to the examination site, nor are they to be allowed to use a USNA taxi without being accompanied by their supervisor.
2. The following steps are to be followed, in sequence, in arranging transportation of the employee to their residence:
 - a. Attempt to arrange transportation by means of a family member. If the employee refuses to allow contact with the spouse or other relative;
 - b. Attempt to arrange transportation by means of a friend or co-worker. If a co-worker agrees to transport the employee home, the supervisor may administratively excuse the co-worker for an absence of less than an hour. If the employee refuses this means of transportation, or no friend is available;
 - c. Offer to arrange transportation by means of a cab, at the employee's expense. If the employee refuses;
 - d. At this point, the employee has refused all efforts of assistance and becomes a disruptive influence. The Security Department is to be called so the employee may be detained by proper personnel.
3. In the event the employee attempts to leave the facility, immediately call Security to stop and detain the employee. While a supervisor is responsible for making every reasonable effort to prevent an employee from operating a vehicle, that responsibility does not require the supervisor to physically detain the employee. At no time should the supervisor place himself/herself in a position where a physical confrontation results.
4. Guidance concerning atypical situations may be obtained by calling the Management-Employee Relations Division of the Civilian Personnel Department at extension 2533.