

# EMPLOYEE COUNSELING PROGRAM FRONTLINE SUPERVISOR

Daytime: 410-366-1980 x278/279



Eve./Holidays: 1-800-285-1537

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■ **If I refer my employee to the EAP for chronic absenteeism, how should I respond if she comes in late the very next day? Should I continue to wait for improvement? If so, how long?**

**Although many supervisors** would report knowing exactly how they would respond to such a scenario, in practice most deliberate and feel ambivalent before deciding what to do. Your decision may require making a judgment that weighs the urgency needed for change, the expectations of management, or the attitude demonstrated by your employee toward resolving her attendance problem. Although waiting longer sends an unintended message of indifference, it is likely that any personal problem is still untreated. Be careful of your emotional reaction to your employee so you can effectively deliberate about how to respond. Don't blame the EAP if you feel "caught in the middle" or ambivalent. Remember that it is the employee's behavior that is in question and she is personally responsible for it.

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■ **Is it okay to ask the EAP for its opinion on the impact of a proposed disciplinary action on an employee's mental state? We would not want to cause an employee to relapse, add unduly to his stress, or increase his depression.**

**Depending on clinical skill** and knowledge of the employee's condition, your employee assistance professional may be capable of rendering such a judgment, but it would be beyond the EAP's role. Although EAPs function as consultants on managing troubled employees, they are not consulting psychologists on the potential effects of disciplinary actions for individual employees. Considering such a request would raise several ethical conflicts. The first is clinically judging the emotional state of an employee and disclosing it to you. This is beyond the limits of a release appropriate in the EAP setting. Second, it could place you at risk if you acted contrary to the advice and an unwanted outcome related to the employee's health ensued. Finally, such a role subordinates personnel actions to the EAP's approval. Predictably, you would soon conclude that the EAP gets in your way.

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■ **My employee was disciplined for exaggerating his workers' compensation claim. Should we also make a supervisor referral to the EAP?**

**Exaggerated claims after** a legitimate work-related injury are the most common types of workers' comp fraud—far more common than filing totally fabricated claims, according to Midwestern Insurance Alliance. Although your employee has been confronted, he may have a personal problem that contributed to his filing an exaggerated claim. That personal problem might be a substance abuse issue. Between 38

and 50 percent of all workers' compensation claims involve workplace drug or alcohol abuse, according to the U.S. Department of Labor. And drug-abusing employees are five times more likely to file a compensation claim, according to the National Institute on Drug Abuse. An EAP referral may help identify an addiction problem, thereby reducing the risk of a future accident. It may also reduce the likelihood of an illegitimate claim, saving the organization from significant financial loss.

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■ **My employee wanted to see my documentation on her performance. This is good, and I agree she should see it. However, she also wanted every personal note I've made to myself about her performance. When I refused, she got upset and angry. Was I right to withhold it?**

**If you were keeping personal** notes with the expectation that they would not be shared, then your right to privacy is well established. You might rely upon them later to jog your memory and construct documentation, but they have no role in official documentation. Your private notes are similar to a diary, or a journal of intimate or personal experiences. It might be appropriate to share such notes if there was some overriding concern more important than your privacy, but this does not appear to be the case. Avoiding a power struggle over the notes can be accomplished by telling your employee that the documentation you have to share represents the entirety of your concerns about her performance. You are not obligated to disclose the existence of private notes that would have no official purpose.

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■ **When an employee tests positive for alcohol or drug use on the job, how is a referral to the EAP "voluntary" if the alternative is termination for violating the policy? Aren't we forcing the employee to go?**

**Referral to the EAP in lieu** of disciplinary action for violating the company drug-free workplace policy is an accommodation for an employee who may have an addictive disease, although few employees see it this way initially. The hope is that the employee will accept help, enter recovery, remain abstinent, and stay employed. At first glance, this process may appear coercive and forced, but it is still voluntary. This is because failure to go to the EAP triggers disciplinary action based upon violating the policy, not failure to accept help. Although the referral may meet requirements under the law, as in the case of the U.S. Department of Transportation regulations pertaining to drug-testing, it is still based upon the possible existence of addictive illness. It is less likely that a person will initially view an EAP referral as an accommodation, if that person does not believe alcoholism or drug addictions are truly health care problems.

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