



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

EXECUTIVE ORDER NO. 46

December 18, 1992

EMPLOYEE ASSISTANCE PROGRAMS
(Supersedes Executive Order No. 120, dated May 15, 1989)

WHEREAS, it has long been recognized that substance abuse and other mental, emotional and social problems have a serious impact on the health, welfare and social life of the individual, the individual's family, co-workers and the community; and

WHEREAS, the City is committed to providing a coordinated program to combat substance abuse and other mental, emotional and social problems of its employees in a humane and constructive manner; and

WHEREAS, experience indicates that Employee Assistance Programs (EAPs) constitute an effective means for ameliorating such problems; and

WHEREAS, the City recognizes that EAPs represent an investment in the improved productivity of its workforce, and therefore encourages its employees to utilize EAP services when they experience problems related to substance abuse or other mental, emotional or social problems;

NOW, THEREFORE, by the power vested in me as Mayor of the City of New York, it is hereby ordered as follows:

Section 1. Policy

(a) The City shall encourage employees to obtain appropriate treatment when an employee is perceived to experience problems causing impaired job performance;

(b) A problem causing impaired job performance exists when an employee's competent or safe performance of assigned duties or dependability is jeopardized as a direct consequence of a personal health problem such as substance abuse or an emotional disorder;

(c) Each agency shall review its existing procedures or develop procedures, subject to review by the Office of Labor Relations (OLR), by which employees may utilize EAP services, either voluntarily or by supervisory referral;

(d) Nothing in this Order shall be construed to diminish the employer's responsibility to maintain discipline or to waive its right to invoke disciplinary proceedings or take other appropriate action in the event of work-related misconduct or substandard job performance which may result from substance abuse or other mental, emotional or social problems.

(e) This Order shall not apply with respect to the substance abuse policies of the Police Department and the Departments of Correction and Probation.

Section 2. Applicability

Except as provided in subdivision (e) of Section 1, above, the policies and programs contained in this Order shall apply to all City employees except temporary employees.

Section 3. Employee Assistance Programs

(a) Citywide Program. The City shall establish and maintain a Citywide system of EAP services, including Agency-based EAPs and a Central EAP for those employees not covered by an Agency program. The Office of Labor Relations (OLR) shall:

(1) through its Employee Benefits Program, implement the policies contained in this Order and related policies, and oversee and coordinate a Citywide network of EAPs;

(2) with the cooperation and participation of City Agencies, be responsible for the promotion and development of new EAPs as needed;

(3) enlist the cooperation and participation of employee organizations in the promotion and development of new EAPs;

(4) issue such directives and instructions to Agencies as are required to implement the policies enunciated in this Order;

(5) in conjunction with the Law Department, review EAP policies and operations in order to ensure conformity with Federal, State, and City regulations and guidelines on confidentiality;

(6) establish policy regarding the maintenance of EAP services and standards and insure EAP quality by conducting periodic reviews of EAP policies, procedures, and performance;

(7) in accordance with the Agencies, coordinate the services and support needed to enhance the quality of service provided to City employees;

(8) develop and periodically review and evaluate referral resources for counseling and substance abuse treatment;

(9) determine proper levels of staffing for EAPs in consultation with the Office of Management and Budget and the Agencies;

(10) be responsible for standardization of EAPs with regard to the qualifications and credential of EAP staff;

(11) with the cooperation and participation of EAPs, develop new benefit designs and program initiatives involving substance abuse;

(12) be responsible for the operation of the Central EAP, whose functions shall include referring employees to Agency-based EAPs, providing coverage in the absence of an Agency-based program, and carry out special programs.

(b) Union Sponsored Programs Where there is a Union-sponsored counseling program in existence, employees shall be offered a choice of attending either the appropriate Union-sponsored program or the Agency-based EAP (or the Central EAP when there is no Agency-based EAP). If an employee who is covered by a Union or Agency-based program initially seeks assistance from the Central EAP, the Central EAP counselor shall inform the employee of the option to use either the Agency-based or Union EAP and the employee shall be encouraged to do so in order to prevent duplication of effort and to facilitate coordination of services.

(c) Municipal Employee Assistance Program (MEAP) Consortium Board There is hereby established a MEAP Consortium consisting of representatives from each of the Agency-based EAPs and the Central EAP. Representatives of union-sponsored counseling programs shall be invited to join the MEAP Consortium. The MEAP Consortium shall designate a MEAP Board which, acting in an advisory capacity, shall meet with OLR on a regular basis concerning the development of programs, policies, operations and procedures related to EAP functions.

(d) Agency Programs

(1) Utilizing titles established by the Department of Personnel and designated by OLR for use in EAP positions, Agency heads shall designate staff responsible for administering their EAPs;

(2) Agencies shall, with the assistance and approval of OLR, provide training for supervisors and counselors on a wide range of employee issues including, but not limited to, the impact of substance abuse in the workplace and the appropriate procedures for referring employees to EAPs;

(3) Agency-based EAPs shall provide OLR with statistical and other data determined by OLR as necessary to oversee activities of EAPs for purposes of benefit design, quality assurance, and overall program effectiveness. Data to be collected shall include, but not be limited to, the demographics of employees utilizing EAP services, program utilization rate (compared with program capacity), the types of problems presented by employees, the nature of the counseling services provided by EAP staff, the number and nature of treatment referrals made to outside providers, and the outcome of these referrals.

Section 4. Employees

(a) Job security and promotional opportunities shall not be jeopardized by a voluntary request for counseling or referral assistance;

(b) Medical records of employees with impaired job performance problems shall be preserved in the same manner as all other medical records. The confidential nature of these records will be governed by applicable State and Federal law;

(c) Employees shall be permitted to attend an initial EAP appointment during working hours at a time which is mutually convenient to the employee and the Agency. Attendance on Agency time must be verified in writing to the Agency by the EAP. Thereafter, employees must utilize appropriate leave balances pursuant to existing policies and procedures or schedule EAP visits during their lunch period;

(d) If an employee has exhausted sick and annual leave balance, the Agency head may, under certain conditions and at the Agency head's discretion, grant the employee a medical leave or absence without pay to undergo a prescribed program of treatment.

Section 5. Reports

OLR shall report annually to the First Deputy Mayor on the EAPs. Agencies shall submit reports on the operations of their EAPs upon request by OLR and such reports shall form the basis of the annual report. The data to be included in such reports shall be determined by OLR in consultation with the MEAP Consortium Board.

Section 6. Effective Date

This Order shall take effect immediately.

A handwritten signature in black ink, appearing to read "D. N. Dinkins", is written over a horizontal line.

DAVID N. DINKINS
MAYOR