



NON-PUNITIVE DIVERSION & EVALUATION PROGRAMS

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I. POLICY

It is the policy of the County government and the department to provide employees and supervisors with adequate resources to meet employees' special needs in times of crisis or personal difficulty. The County and the department recognize their obligation to the emotional well-being of employees, and also their obligation to the public to ensure that all employees are emotionally capable of performing their normal duties.

II. AUTHORIZATION FOR USE

This directive describes programs which provide supervisors with counseling and evaluation resources for managing the performance of subordinates. These programs are intended primarily for those employees who are suffering from personal or emotional problems, whether or not their job performance is affected.

However, when job performance is obviously affected, it should be documented. None of these programs are intended to substitute for disciplinary action where it is warranted. The Chief may at his or her discretion defer disciplinary action pending successful completion of any of these programs, upon a determination that such action is in the best interest of the employee and the County government. The decision to proceed with disciplinary action would then be made after considering the effect of the counseling or evaluation on the employee's job performance.

III. CONFIDENTIALITY REQUIRED

Whenever a supervisor uses any of these programs, he or she is required to take every precaution to ensure that the situation remains confidential. The only persons within the department authorized to receive employee information on these matters are those in the employee's chain of command up to and including the Chief, and the manager of the Police Personnel Section.

IV. DIVERSION & EVALUATION PROGRAMS

A. Employee Assistance Program (EAP)

EAP is provided as a benefit to all Anne Arundel County employees and their families. Generally, EAP renders counseling and referral for a wide range of personal and emotional problems.

1. Voluntary or Informal Referral

Any employee who wishes to use EAP may call and schedule an appointment. An "informal" referral can also be made by the supervisor in response to an employee's request, or when the supervisor feels it would benefit the employee. There are no procedures to follow in making an informal referral.

In cases of informal referral, or cases where the employee initiates contact with the EAP, all information relating to the contact is confidential. EAP will not inform the County or the department about the nature of the concern -- nor will they even confirm that a contact has been made.

2. Formal Referral

When an employee's work performance or behavior indicates a need for assistance by the EAP, a supervisor may consider making a formal referral. A referral to the EAP is considered "formal" only when the following steps are followed:

To formally refer an employee to EAP, the supervisor must:

- a. Confront the employee with the situation giving rise to the referral. Discuss the reasons for suggesting EAP by referring to work performance or behavior. Strongly encourage the employee to seek the assistance of EAP. Indicate that you, as his/her supervisor, will make the formal referral on his/her behalf.
- b. If the employee agrees to seek assistance through a formal referral, you should contact EAP in the presence of the employee. The name, address, and telephone number of the current EAP provider are listed on Appendix A of this directive.
- c. Make the statement to EAP, "This is a formal referral of (name of employee). My name is (name of supervisor making referral). I wish to know whether or not this employee appears for his/her appointment, and whether he/she follows through on such treatment as may be recommended."
- d. Give EAP specific information about the condition(s) which gave rise to the referral, including any disciplinary history.

When the above steps are followed, the only two pieces of information that can be given by EAP to the referring supervisor are:

- a. Whether or not the referred employee appears for his/her appointment with EAP, and
- b. Whether or not the referred employee follows through on the treatment as may have been recommended.

No information regarding the nature of the employee's problem will be provided to the supervisor.

It should be stressed to an employee in need of assistance, that EAP is a confidential resource that is available to assist in resolving personal problems that may be contributing to poor work performance or behavior. Furthermore, if work performance does not improve, the continuation of his/her employment with the County could be jeopardized.

The EAP should never take the place of whatever disciplinary action is appropriate for the situation giving rise to the formal referral. An EAP referral is to be used in addition to normal progressive discipline in situations where performance problems warrant such action. Further, a formal referral to the EAP may not be substituted for the procedures contained in the County's CDS policy in the event an employee discloses a substance abuse problem. Cases such as these should be discussed with the County Office of Personnel's Personnel Analyst with liaison responsibility for the Police Department, prior to any action being taken.

B. Traumatic Incident Counseling

Traumatic incident counseling is provided to employees who are exposed to traumatic incidents, usually involving a death. In some cases it is mandatory. It is available to any employee who feels that they would benefit from it. Additionally, supervisors who believe that traumatic incident counseling would be helpful for any employee should discuss this option with the employee, and if the employee expresses interest, the supervisor should contact Police Personnel to make the necessary arrangements.

Traumatic incident counseling is available to all employees, not only police officers. It is important that supervisors of the Communications Section, Evidence Management Section, and any other component where exposure to traumatic incidents is possible, are aware of its availability.

Employees who desire more information on traumatic incident counseling should call the manager of the Personnel Section.

C. Emotional Fitness for Duty Evaluation

An "emotional fitness for duty" evaluation is an administrative process, not a disciplinary process. It is available when a supervisor believes that an employee is temporarily or permanently unqualified for continued employment in his or her current position due to a mental or emotional problem.

When a supervisor believes that an employee is unfit for duty, based on the supervisor's direct or indirect knowledge or observations, he or she must request that the employee be required to attend a fitness for duty evaluation. This evaluation process is appropriate when the employee's conduct or behavior raise questions about his or her mental fitness to perform the duties of a police officer, or the duties of the position the employee holds if not that of a police officer.

This request must be supported by detailed written documentation of the conduct or behavior in question. The supervisor and members of the chain of command must include a recommendation to the Chief on whether to continue the employee in the present duty status and assignment while the evaluation process is progressing.

A fitness for duty request should be submitted in inter-office correspondence to the Chief of Police via the chain of command. The Chief will coordinate the scheduling of these evaluations with the Anne Arundel County Personnel Officer.

Employees who are suspended from duty pending a fitness for duty evaluation may be reassigned to an administrative job or placed on leave with pay. *The supervisor affecting an emergency suspension will ensure that the Crisis Intervention Team/Peer Support follows up with the employee within twenty-four (24) hours of the suspension.*

Police officers suspended from duty as a result of this process are entitled to a prompt hearing under LEOBR to determine whether the suspension should be continued, and if so, whether it should be with or without pay.

However, a fitness for duty evaluation is administrative, not disciplinary, in nature. Its purpose is to determine whether an employee still possesses the minimum mental or psychological qualifications for his or her job. In cases involving police officers, the department's legal advisor and the Internal Affairs commander will determine whether the other requirements of LEOBR apply, on a case-by-case basis.

V. COST & LEAVE POLICY

A. Cost

Employees and their immediate families are entitled to an annually negotiated number of free EAP counseling sessions per calendar year. They should consult the Police Personnel Section for the current allowances. The cost of follow-ups and referrals is the employee's responsibility. Some forms of extended counseling may be covered by the employee's group health insurance policy.

The County will pay for the costs of traumatic counseling and emotional fitness for duty evaluations.

B. Leave

Employees who are formally referred by the department to attend counseling or evaluation programs will be placed on special assignment while actually attending the initial sessions. If extended counseling or treatment is indicated as a result of the initial evaluation, the employee will be expected to use disability leave, annual leave, or his/her off-duty time.

All EAP contacts and counseling not formally referred will be taken on the employee's time. Disability or annual leave may be used subject to supervisory approval.

VI. PROPONENT UNIT: Personnel Section.

VII. CANCELLATION: This written directive cancels Index Code 306, dated 08-30-13.